

**National Assembly for Wales**  
Bill Summary

# The Planning (Wales) Bill

December 2014

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



Research  
Service

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales and holds the Welsh Government to account.

The Research Service provides expert and impartial research and information to support Assembly Members and committees in fulfilling the scrutiny, legislative and representative functions of the National Assembly for Wales.

Research Service briefings are compiled for the benefit of Assembly Members and their support staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public. We welcome comments on our briefings; please post or email to the addresses below.

An electronic version of this paper can be found on the National Assembly website at: [www.assemblywales.org/research](http://www.assemblywales.org/research)

Further hard copies of this paper can be obtained from:

Research Service  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Email: [Research.Service@Assembly.Wales](mailto:Research.Service@Assembly.Wales)

Twitter: [@SeneddResearch](https://twitter.com/SeneddResearch)

© National Assembly for Wales Commission Copyright 2014

The text of this document may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading or derogatory context. The material must be acknowledged as copyright of the National Assembly for Wales Commission and the title of the document specified.

Enquiry no: 14/2592

Paper number: 14/051

**National Assembly for Wales**  
Bill Summary

**The Planning (Wales) Bill**

December 2014

Graham Winter, Helen Jones, Stephen Boyce

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



Research  
Service



# Contents

<b>1. Introduction</b> .....	<b>1</b>
<b>2. Background</b> .....	<b>3</b>
2.1. Legislative competence .....	3
2.2. Legislative framework .....	3
2.3. Bill development .....	4
2.3.1. Third Assembly – Committee report on Planning .....	4
2.3.2. Independent Advisory Group and evidence base .....	5
2.3.3. Positive Planning and Draft Planning Bill .....	5
2.3.4. Changes between the Draft Bill and the revised Bill .....	6
<b>3. The Planning (Wales) Bill: summary of provisions</b> .....	<b>8</b>
3.1. Part 1 – Introduction .....	8
3.2. Part 2 – Development Planning .....	8
3.3. Part 3 – Pre-application Procedure.....	9
3.4. Part 4 – Applications to Welsh Ministers.....	10
3.5. Part 5 – Development Management.....	11
3.6. Part 6 – Enforcement and Appeals .....	13
3.7. Part 7 – Town and Village Greens.....	14
3.8. Part 8 – General Provisions .....	14
<b>4. Financial implications of the Bill</b> .....	<b>15</b>
4.1. Summary of additional costs and savings as set out in the RIA.....	15
4.2. Secondary legislation and policy intent document.....	16
<b>5. Response to the Bill</b> .....	<b>18</b>
5.1. Stakeholder views .....	18
5.2. Plenary statement on the Planning Bill 7 October 2014 .....	18



# The Planning (Wales) Bill

## 1. Introduction

The Planning (Wales) Bill was laid on 6 October 2014 and introduced in Plenary by the Minister for Natural Resources, Carl Sargeant AM, on 7 October 2014. The overall aim of the Bill is to create a more consistent planning system that enables development and enhances built and natural environments. The [Welsh Government](#) has set out five key objectives for the Bill:

- a modernised framework for the delivery of planning services – the Bill will allow planning applications to be made directly to Welsh Ministers in limited circumstances
- strengthening the plan led approach – the Bill will introduce a legal basis for the preparation of a National Development Framework and Strategic Development Plans
- improved resilience – the Bill will allow the Welsh Ministers to direct local planning authorities to work together and for local planning authorities to be merged
- frontloading and improving the development management system – the Bill will introduce a statutory pre application procedure for defined categories of planning application
- enabling effective enforcement and appeals – the Bill will make changes to enforcement procedures to secure prompt, meaningful action against breaches of planning control and increase the transparency and efficiency of the appeal system.

The Minister in charge of the Bill, Carl Sargeant AM made a plenary statement on 7 October 2014<sup>1</sup>.

The scrutiny of the Planning (Wales) Bill is remitted to the Environment and Sustainability Committee. On 23 September 2014 the Business Committee agreed

---

<sup>1</sup> National Assembly for Wales RoP Plenary, [Statement: the Planning \(Wales\) Bill](#) 7 October 2014

the deadline for the Stage 1 Committee to report as 30 January 2015 and the deadline for the completion of Stage 2 Committee proceedings as 27 March 2015.

The Environment and Sustainability Committee has held a [consultation](#) on the general principles of the Bill, which closed on 7 November. The Committee is considering the Bill at stage 1 and began taking evidence on 27 November 2014.



## 2. Background

### *2.1. Legislative competence*

The Assembly has legislative competence over many, but not all aspects of planning. Schedule 7, Part 1 of the *Government of Wales Act 2006* lists the subjects which are within the Assembly's competence. The Explanatory Memorandum to the Bill identifies the following subjects in schedule 7 which are relevant to the Bill:

#### **Town and Country Planning**

18. Town and country planning [...] Spatial planning. [...] Urban development.

#### **Local Government**

12. Constitution, structure and areas of local authorities. [...] Powers and duties of local authorities and their members and officers.

#### **Environment**

6. [...] Town and village greens”

#### **Public Administration**

14. Inquiries in respect of matters in relation to which the Welsh Ministers [...] exercise functions.

### *2.2. Legislative framework*

The main pieces of primary legislation as they relate to planning in Wales are:

- *The Town and Country Planning Act 1990*
- *The Planning and Compulsory Purchase Act 2004*
- *The Planning Act 2008*

The Planning (Wales) Bill would amend existing England and Wales primary legislation, principally *the Town and Country Planning Act 1990* and *The Planning*

*and Compulsory Purchase Act 2004*. The Welsh Government has published a Keeling Schedule which shows the effects of the amendments on these two Acts. However, much of the substance of the planning legislative framework is contained in subordinate legislation and policy and guidance, and the Bill includes a significant number of provisions to make subordinate legislation. These are set out in chapter 5 (p51) of the Explanatory Memorandum.

The Welsh Government has published [statements of policy intent](#) which set out the current policy approach for the subordinate legislation for the Planning (Wales) Bill. It is also consulting on some of the provisions in the Bill:

- [Frontloading the development management system](#): Part 3 Sections 15 and 16; Part 5 Section 35
- [Planning Committees, delegation and joint planning boards](#): Part 5 Section 37
- [Design in the planning process](#): Part 5 Section 27

### *2.3. Bill development*

#### *2.3.1. Third Assembly – Committee report on Planning*

Reform of the planning system in Wales, including the consolidation of planning legislation, formed part of an inquiry by the Sustainability Committee of the Third Assembly into the [land use planning system in Wales](#). One of its recommendations in January 2011 was that the Welsh Government should bring forward a Planning Bill for Wales. This recommendation was noted by the Welsh Government at that time. At the start of the Fourth Assembly the [First Minister announced a Planning Bill](#) that would:

Consolidate existing legislation to make the planning system more transparent and accessible. It will also provide an opportunity to reconsider roles and responsibilities, helping us to ensure that we have a planning system that can help deliver economic renewal.

In July 2013 the [First Minister announced](#) that a Planning Bill would be introduced which would set out new roles and responsibilities for Welsh Ministers, local authorities, developers and communities.

A separate Planning Consolidation Bill (to create a simplified legislative framework for Wales, rather than amending England and Wales legislation), has also been [proposed by the Welsh Government](#), but will not be introduced in the Fourth Assembly.

### *2.3.2. Independent Advisory Group and evidence base*

In October 2011 the Minister for Environment and Sustainable Development established an Independent Advisory Group (IAG) to review the delivery of the planning system in Wales as part of the evidence base for a White Paper, leading ultimately to a Welsh Planning Bill. The IAG published its [report](#) in June 2012. It set out 97 recommendations to the Welsh Government. The Welsh Government has not formally responded to the recommendations in the IAG report.

### *2.3.3. Positive Planning and Draft Planning Bill*

In December 2013 the Welsh Government published [Positive Planning](#), a consultation paper on reforming the planning system in Wales. A [Draft Planning \(Wales\) Bill](#) was also published at the same time. The [Positive Planning](#) consultation paper stated that “many of the proposals put forward by the IAG are being taken forward. They are explained in this consultation paper and, where primary legislation is required, included in our draft Bill.”

In addition the Welsh Government has previously commissioned a number of other studies and research reports which it stated form part of the evidence base for the Bill.

These were considered by the Environment and Sustainability Committee in its pre-legislative scrutiny work on the Draft Bill and the Positive Planning proposals earlier in 2014. The Committee wrote to the [Minister of Housing and Regeneration](#) in April 2014 setting out its views on the reform package and on the Draft Bill.

Some of the key points from this letter that are relevant to consideration of the Bill are:

- The difficulty of judging the impact of new statutory requirements without more information about what they mean in practice (as these are often to be set out later in Regulations);
- The need for a thorough Regulatory Impact Assessment in order to be able to judge the resource impact of the proposals;
- A clearer explanation of the links between the planning reform proposals and other existing and proposed legislation;
- The complexity of existing planning legislation for Wales which will be further exacerbated by the Bill;
- The impact of local government reorganisation and a reduction in the number of local planning authorities on the Bill's proposals;
- A statutory purpose for planning on the face of the Bill, as recommended by the IAG;
- The IAG recommendations about the reforms of the Call-in process, Compulsory Purchase and Section 106 Agreements that did not feature in the Draft Bill;
- Decisions on associated development for NSIPs to be taken by Welsh Ministers rather than Local Planning Authorities.

The Welsh Government has not replied to this letter and most of the recommendations made by the Committee on the Draft Bill are not reflected in the revised version of the Bill.

#### *2.3.4. Changes between the Draft Bill and the revised Bill*

There are no significant changes between the proposals set out in the Draft Bill and the revised version. The revised Bill contains some provisions that weren't in the Draft Bill, but these were referred in the Positive Planning consultation paper as likely to be included when the Bill was introduced. Examples are the provisions relating to enforcement procedures, standardising planning committee arrangements across Wales and town and village greens. Positive Planning refers to a possible change in the role of National Park Authorities as Local Planning

Authorities. However the revised Bill also does not contain any changes to the planning functions of National Park Authorities. On 25 September 2014 the Minister for Natural Resources announced a [Review of Designated Landscapes in Wales](#).

### 3. The Planning (Wales) Bill: summary of provisions

#### *3.1. Part 1 – Introduction*

**Part 1** provides an overview of the Bill.

#### *3.2. Part 2 – Development Planning*

**Part 2** relates to the Development Plan process. **Section 2** replaces the Wales Spatial Plan (WSP) with a new national plan; the **National Development Framework (NDF)**. There will be provisions inserted into primary legislation which will introduce a statutory basis for Welsh Ministers to prepare and publish a NDF for Wales. This will form part of the formal ‘development plan’ for Wales (unlike the WSP) and development plans prepared by other bodies (Strategic and Local) must take the NDF into account (see Section 8 below).

This is a significant change as it introduces more than one tier of development plan for the first time in Wales since before the last local government reorganisation in 1996. The NDF can also be used to designate **Developments of National Significance** (see Part 4 below). The NDF will be laid before the Assembly and it will be given 60 days to consider the plan and to report on it. Welsh Ministers must then “have regard” to the views of the Assembly or any of its committees. The plan must be reviewed and revised every five years. These provisions are similar to those in place in Scotland for the [Scottish National Planning Framework](#).

**Sections 3–9** deal with the preparation of a new tier of **Strategic Development Plans (SDPs)** that sit above Local Development Plans (LDPs) in the plan hierarchy in parts of Wales. This will include the designation of **strategic planning areas (SPA)** where it is considered an SDP is required and the establishment of **strategic planning panels (SPPs)** to prepare such documents. Where SDPs exist they will also form part of the ‘development plan.’

**Section 3** enables Welsh Ministers to make regulations designating a strategic planning area and establishing a strategic planning panel for that area. The Welsh Ministers must carry out consultation before designating an area for a SDP.

**Schedule 2A** of the Bill covers the membership, administration and financial arrangements of a SPP. The panel will be made up of both local authority elected members (two thirds) and nominated members (one third).

The Welsh Government has issued a further consultation [Planning committees, delegation and joint planning boards](#) that includes more details about the election arrangements for SPPs.

**Sections 10–13** make various changes to the **LDP process**.

**Section 14** introduces Schedule 2 that contains consequential amendments to various Acts.

### *3.3. Part 3 – Pre-application Procedure*

**Part 3** introduces new procedures for **pre-application consultation** and powers about the provision of **pre-application services**.

**Section 15** will require a prospective applicant for planning permission to **consult with the local community** on certain types of development proposals before an application is submitted (to be defined in an Order by Welsh Ministers) and produce a report on the outcome of that consultation. The report will be required to be included as part of the final planning application that is submitted by the applicant for determination.

The Welsh Government has produced a separate consultation on '[Frontloading the development management system](#)' that gives further details about how it intends to use the powers in this section.

**Section 16** will allow a prospective applicant for planning permission to request advice from the determining body (LPA or the Welsh Ministers) on their proposals before the application is formally submitted for consideration. The determining body will be under a legal duty to provide this **pre-application advice service**. The detail regarding the providing of this service will be set out in subordinate legislation. The Welsh Government intends that **fees should be charged** for these services on a 'cost recovery' basis, possibly excluding fees for householder development.

The Welsh Government's separate consultation on '[Frontloading the development management system](#)' covers its proposals for secondary legislation for the provision of pre-application advice services under Section 16 **for LPAs only** – it intends to consult separately on the provision of such a service by the Welsh Ministers.

### *3.4. Part 4 – Applications to Welsh Ministers*

**Sections 17–19** introduce a new category of planning permission known as **Developments of National Significance (DNS)** which will be decided by Welsh Ministers. These will sit above applications for planning permission that are decided by LPAs but below those for 'development consent' that are decided by the UK Government under the *Planning Act 2008* regime (Nationally Significant Infrastructure Projects – NSIPs, in Wales mostly large-scale energy projects).

**Section 17** requires that planning applications for DNS are to be made to the Welsh Ministers. As well prescribing in regulations the criteria which establish what constitutes a DNS, a development in Wales will be a DNS if it is specified by the Welsh Ministers in the NDF (see paragraph 2.2 above).

**Section 18** will ensure that **connected secondary consents** associated with DNS applications may be made directly to the Welsh Ministers, where developers request them. These will be described in secondary legislation.

**Section 19** is a requirement for LPAs affected by a DNS application to prepare a **Local Impact Report**.

**Section 20** will provide developers with the opportunity to make an application for planning permission directly to Welsh Ministers in circumstances where the **LPA is considered to be 'underperforming'**. The Welsh Ministers must publish the criteria to be applied in designating a LPA as 'underperforming' and also in revoking such a designation.

**Section 21** sets out that a **decision** on an application made by the Welsh Ministers, either a DNS application or an application under Section 20, **will be final**, so there is no right of appeal for such applications.



**Sections 22–25** enables Welsh Ministers to decide how applications are determined by Welsh Ministers, including the procedures to be followed, the way applications are dealt with, and the appointment of persons to consider applications.

### *3.5. Part 5 – Development Management*

**Part 5** deals with aspects of the development management process. **Sections 26–37** make a number of changes to the existing process. These include a requirement on developers to notify the LPA of the date when development begins and to provide additional information, a new right of appeal to Welsh Ministers against non-determination on grounds of validity and a power for Welsh Ministers to require a LPA to delegate certain functions relating to planning applications and to specify the size/make up of planning committees. Some of these provisions are already in place in England.

**Section 26** introduces in Wales limits on a LPA's power to require information to accompany planning applications. Information requests must be 'reasonable and relevant'.

**Section 27** will remove the primary legislative provisions that require **design and access statements** to accompany planning applications for certain types of development. However the Welsh Government has said that it remains committed to ensuring good design in development that includes inclusive access arrangements and it has issued a consultation on [Design in the Planning Process](#).

**Section 28** in summary provides applicants with a **right of appeal** to the Welsh Ministers where the LPA has **decided not to validate their planning application**.

**Section 29** revokes the *Town and Country Planning (Application) Regulations 1988* for all purposes.

**Section 30** will allow LPAs to **decline to accept retrospective planning applications** where an **enforcement notice has already been served**, to ensure the enforcement process is not delayed.

**Section 31** specifies the **form and manner of decision notices** issued with planning permissions (including requiring plans or other documents with regards to the development to be specified on the decision notice).

**Section 32** places a requirement on developers to **notify the LPA** of the **date** on which the **development is to begin** and the details of the planning permission to be implemented. It also requires a developer to **display** on or near the development site a **notice of a decision** to grant planning permission for that development.

**Sections 33 and 34** make amendments to reflect case law so that the **time limit** that applies when an application, which varies or removes conditions from a previous planning permission, is granted is the **same as the time limit for the original permission**.

**Section 35** makes a number of provisions about **statutory consultees** at the ‘post-determination’ stage, relating to applications for the approval of reserved matters, the discharge of planning conditions, and applications for non-material changes to planning permission. It will ensure that when a statutory consultee is consulted on such applications they must provide a “substantive response.”

Depending on the type of application, statutory consultees in the planning process include such organisations such as Natural Resources Wales, the Health & Safety Executive and the Sports Council for Wales.

The Welsh Government has produced a separate consultation on ‘[Frontloading the development management system](#)’ that gives further details about how the Bill impacts on statutory consultees.

**Section 36** will enable the process leading to the **stopping up or diversion of public paths** to start before planning permission has been granted. This provision is already in place in England.

**Section 37** will:

- introduce a **national scheme of delegation**. This provision will enable Welsh Ministers by means of regulations to require a LPA to make arrangements for

the discharge of functions relating to planning applications by a **committee, sub-committee or an officer of the Authority;**

- allow for Welsh Ministers by regulations to prescribe requirements relating to the **size and composition of planning committees.**

The Welsh Government has issued a further consultation [Planning committees, delegation and joint planning boards](#) about the use of these powers.

### *3.6. Part 6 – Enforcement and Appeals*

**Section 38** will enable LPAs to issue **enforcement warning notices**. They will be able to do this if it appears to them that there has been a breach of planning control and there is a “reasonable prospect” that planning permission would be granted if an application were to be submitted. This provision already exists in England.

**Sections 39, 40 and 41** will make technical changes to amend current procedures so that in future there would **only be one avenue to have planning permission granted through an appeal.**

**Section 42** will **prevent the variation** of certain planning and other types of application once **notice of an appeal has been served.**

**Section 43** will transfer responsibility for determining **appeals against notices** served under Section 215 of the *Town & Country Planning Act 1990* (about **land adversely affecting amenity**) from the **Magistrates’ Courts to the Welsh Ministers.** Such a change has already been made in England.

**Section 44** is about the **payment and award of costs.** This is a standalone provision for costs to be awarded resulting from either, an **application, appeal or reference to the Welsh Ministers.**

**Section 45** provides powers relating to **appeals and call-ins** by the Welsh Ministers that are handled by the Planning Inspectorate. They will enable Welsh Ministers to:

- Bring forward regulations to set out the **procedure** to be followed in connection with an **inquiry, hearing or written representations;**

- Bring forward regulations to specify that a matter may not be raised in proceedings on an appeal made to the Welsh Ministers unless it has been previously raised before a prescribed time or it is shown that it could not have been raised before that time.

**Section 46** introduces Schedule 5 that makes consequential, technical amendments relating to costs and appeals procedures.

### *3.7. Part 7 – Town and Village Greens*

**Sections 47–50** will prohibit applications being made to **register land as a Town or Village Green (TVG)** where the land has entered the planning system. These replicate changes already introduced in England by the *Growth & Infrastructure Act 2013*.

The Statements of Policy Intent state that the lack of integration between the planning system and the system for registering TVGs “has been identified as problematic, as there are increasing instances of the TVG registration system being used as a mechanism to frustrate development rather than for the purpose of protecting a particular area of land”. It also states that “the existing strong protection for registered TVGs will remain unchanged”.

### *3.8. Part 8 – General Provisions*

This part includes general provisions relating to the Bill.

## 4. Financial implications of the Bill

A detailed Regulatory Impact Assessment (RIA) is contained in the Explanatory Memorandum. The RIA presents the costs and benefits of the options considered under each section structured around the six main areas of the Bill:

- Development Planning
- Pre-application
- Welsh Minister decision making powers
- Development Management
- Appeals and Enforcement
- Town and Village Greens (TVGs)

The RIA is also supported by a separate methodology document that details the calculations, assumptions and sources of the costs and savings. The Welsh Government also commissioned ARUP to conduct a study into infrastructure, business and commercial planning applications submitted in Wales to inform the Developments of National Significance (DNS) proposals under the Welsh Minister's decision making powers section.

### *4.1. Summary of additional costs and savings as set out in the RIA*

The RIA explains that **it has not been possible to produce one overall estimate of the financial impact of the legislation** due to the different provisions in the Bill which make accurate comparisons impossible. Annex A does provide a summary of the annual additional costs and savings that fall to the Welsh Government, local planning authorities (LPAs), the development industry and other stakeholders. The development industry includes the general public and householders. 'Other stakeholders' refers to statutory consultees and Magistrates courts. One-off costs are also detailed in this section, calculated on a case by case basis.

Table 1 provides a summary of the additional costs and savings that will be incurred as a result of implementing the legislation, although it does not include one-off costs as a number of these depend on the number of cases per year. **The RIA calculates the total additional cost over the first five years of the Bill to be**

around £6.1 million. This cost is offset by total savings of £7.9 million, leaving a net balance of savings of £1.8 million.

The RIA states that the majority of costs incurred by the Bill can be met by a modest increase in resources and overall there is a limited redistribution of the additional costs and savings between the Welsh Government, LPAs and the development industry.

Table 1: Summary table of the net additional costs and savings of the Bill by sector; 2015–16 to 2019–20

	2015–16	2016–17	2017–18	2018–19	2019–20	TOTAL
WG additional cost	71,348	342,853	222,853	222,853	222,853	1,082,760
WG savings	0	-151,347	-151,347	-151,347	-151,347	-605,388
<b>WG net</b>	<b>71,348</b>	<b>191,506</b>	<b>71,506</b>	<b>71,506</b>	<b>71,506</b>	<b>477,372</b>
LPA additional cost	0	95,129	795,129	795,129	795,129	2,480,516
LPA savings	0	-356,012	-356,012	-356,012	-356,012	-1,424,048
<b>Local Planning authority net</b>	<b>0</b>	<b>-260,883</b>	<b>439,117</b>	<b>439,117</b>	<b>439,117</b>	<b>1,056,468</b>
DI additional cost	0	630,093	630,093	630,093	630,093	2,520,372
DI savings	0	-1,428,775	-1,432,075	-1,432,075	-1,432,075	-5,725,000
<b>Development Industry net</b>	<b>0</b>	<b>-798,682</b>	<b>-801,982</b>	<b>-801,982</b>	<b>-801,982</b>	<b>-3,204,628</b>
Other stakeholders cost	0	1,050	1,050	1,050	1,050	4,200
Other stakeholders savings	0	-26,900	-26,900	-26,900	-26,900	-107,600
<b>Other stakeholders net</b>	<b>0</b>	<b>-25,850</b>	<b>-25,850</b>	<b>-25,850</b>	<b>-25,850</b>	<b>-103,400</b>

Source: EMRIA and WG letter

#### 4.2. Secondary legislation and policy intent document.

Several sections in the RIA refer to **additional costs and savings that will be incurred at the secondary legislation stage**. These include among others, Decision Notices, Statutory Consultees – Pre–Application Consultation, thresholds for Developments of National Significance (DNS) applications and DNS application fees. The RIA states that further consultations and RIAs will be produced at a later date. A [Statements of Policy Intent](#) document was published on 10 November 2014 that gives more detail on the policy approach for subordinate legislation contained in the Bill. This document states that each policy area will be subject to its own consultation and scrutiny process.

At the time of writing [three consultations](#) and one RIA have been published which directly relate to the provisions in the Bill. The additional RIA is in relation to [Planning committees, delegation and joint planning boards – Annex 1 Draft Regulatory Impact Assessment](#). There is also a separate on-going consultation

and RIA in relation to the [review of Planning Application Fees](#). It is difficult to ascertain the full cost and benefit of the Bill without the details of the proposed secondary legislation.

## 5. Response to the Bill

### *5.1. Stakeholder views*

Through the Committee's pre-legislative scrutiny work and from some of the responses to the Welsh Government's own consultation on Positive Planning and the Draft Bill (where these have been published elsewhere) there is a broad level of support for many of the proposals and the new emphasis on 'development management' rather than 'development control'. However some concerns have been expressed about some aspects of the Bill including:

- the justification for additional tiers of development plan;
- the make-up of the strategic panels for SDPs and the democratic accountability of social, economic and environmental stakeholders as part of these panels;
- the cost implications for local planning authorities, developers and others;
- the role of Welsh Ministers in deciding on some planning applications, implications for local accountability and the lack of a right of appeal;
- the lack of provisions in the Bill to protect the Welsh Language;
- how the land use planning reforms will integrate with other planning regimes such as those for transport, natural resources planning, City Regions and Marine;
- whether or not National Parks will retain their planning functions;
- the proposals to prevent Town & Village Green registrations once a development proposal has entered the planning system.

### *5.2. Plenary statement on the Planning Bill 7 October 2014*

The **Minister, Carl Sargeant AM**, introduced the Bill, saying:

This is a key piece of legislation for the Assembly, as it provides the first opportunity to amend planning law to provide a system that delivers for Wales. If passed, the legislation will provide the tools to achieve a fair and resilient planning service, enabling delivery of the homes, jobs and infrastructure required by all our communities.



In the debate which followed **Russell George AM**, for the Conservatives, expressed concern that:

this is another framework Bill, with much of the meat following in secondary legislation, which again, denies us as a legislature the opportunity to scrutinise much of your underlying thinking on how the legislation is to be fully implemented.

He also had concerns about strategic development plans, strategic planning panels and the powers being given to Welsh Ministers which he believed ‘erodes democracy’. He characterised this as “another layer of planning governance that will exacerbate the lack of accountability and democracy”. He also raised concerns about Welsh Ministers making decisions on some planning applications:

So, why does the Government believe that in relation to developments of national significance, removing powers from local government is going to improve the planning culture, improve community engagement, and make the system more transparent and accountable?

The **Minister** acknowledged that the Bill is a framework Bill which he said provides flexibility. He stated that consultations and statements of intent on the use of powers in the Bill to make secondary legislation were being published. The Minister expected there would only be around two strategic development plans. Local authorities will be voting members of the strategic planning panels.

**Julie Morgan AM**, for Labour, asked the Minister how the voices of children and young people will be heard in the planning process and about the possible restriction of citizens’ rights in relation to town and village greens.

The **Minister** responded that there are consultation requirements on local authorities in the Bill which will “strengthen the community connection”. He stated that he is aware of concerns around open spaces and village greens and that the issues are being discussed: “I am happy to make Government amendments subject to agreement with the two parties”.

**Llyr Gruffydd AM**, for Plaid Cymru was concerned the Bill would create what he believed would be a ‘top-down’ planning regime, and that strategic planning panels would move decisions further away from communities and would undermine democratic accountability as a third of their members would be

nominated. He believed that the Bill should include a statutory purpose for planning in Wales which would highlight its contribution to sustainable development, including the Welsh language. He was also concerned that the Bill conferred too many powers on Welsh Ministers.

The **Minister** responded that there would be no change in the democratic process regarding strategic planning panels. However, he stated that he would be “listening very carefully” to Members’ concerns about one third of the panel membership being unelected but having voting rights. There was a possibility of a Government amendment to address the concerns. He did not accept the need for a statutory purpose to address, for example, the Welsh language which he believed was covered in the Well-being of Future Generations (Wales) Bill.

**William Powell AM**, for the Liberal Democrats was also concerned about what he saw as the over-centralisation and reduced public input on Developments of National Significance. He sought reassurance from the Minister that the Bill would accommodate extended powers over energy consents being given to Wales, as recommended in the Silk II report, and about the role of Natural Resources Wales which currently has powers over licensing and permissions. He also asked the Minister whether all applications for unconventional gas exploration and extraction involving ‘fracking’ would be included on the DNS list given the wide impact of the ‘fracking’ process.

The **Minister** reiterated the purpose of DNS and stated that decisions about what would be included in the list of DNS would be made later. He provided an example of how the Bill provides for community engagement. He also stated that the Bill was ‘future-proof’. This is because the use of secondary legislation to set out the arrangements for issues such as permitting and licensing and the DNS categories meant that future changes could be made in response to the Silk II report and any other reforms to the devolution settlement.

**Anne Jones AM**, for Labour, asked the Minister about how the criteria for determining poor performance by local authorities will be conveyed.

The **Minister** replied that local authorities will have to report publicly on their performance against criteria set by the Welsh Government.

**Suzy Davies AM**, for the Conservatives, asked how the Welsh Government is strengthening in the Welsh language within the planning system.

The **Minister** replied that the Welsh Government is taking a broader approach than addressing the issue specifically in the Bill. It has introduced TAN 20 and an associated toolkit and there is also provision in the Well-being of Future Generations Bill.

**Simon Thomas AM**, for Plaid Cymru was critical of some local authorities' lack of reference to the Welsh language in their Local Development Plans and said that the Welsh language needed to be a consideration not just at the local level but at the strategic and national level. He believed that the Bill should include a statement of the Welsh Government's aims and objectives for the planning system.

The **Minister** did not accept the criticisms of the Welsh Government's approach to promoting the Welsh language and about the statutory purpose of the planning system which he believed is defined in the Well-being of Future Generations Bill 'which encompasses all legislation that we move forward with'.