

# **Sustainability Committee**

## **Report on the Committee's scrutiny of the UK Planning Bill: implications for Wales**

### **Introduction**

1. The UK Government introduced the Planning Bill on 27 November 2007. The purpose of the Bill is to streamline and improve the planning system. The Bill proposes the establishment of an independent Infrastructure Planning Commission (IPC) to consider applications for "nationally significant" infrastructure projects in the fields of energy, transport, water, waste water and waste. In Wales, the IPC will only take decisions about nationally significant projects where responsibility is not already devolved to Welsh Ministers.

2. The Bill also introduces a Community Infrastructure Levy, aimed at ensuring that the costs incurred in providing infrastructure to support the development of an area can be met in part or in whole, by landowners who have benefited from a significant increase in land value.

3. Prior to introduction of the Bill, it was announced that new framework powers relating to local development plans and the Wales Spatial Plan would be included in the Bill. However, these do not appear on the face of the Bill and are expected to be introduced at Parliamentary Committee Stage.

4. The Committee agreed that it would be appropriate to invite the Minister for Environment, Sustainability and Housing to an evidence session on the UK Planning Bill to allow Members to seek clarification on the implications for Wales. As the Bill was also being considered in Westminster on the same day, the UK Minister and Bill Team were unavailable to attend the evidence session. In order to meet deadlines in scrutiny of the Bill at Westminster, the Committee's consideration of the Bill was limited to one evidence session, which took place on Thursday 24 January 2008.

### **Issues raised in evidence**

5. The Minister opened the evidence session by explaining that her main aim in discussions with the UK Government on the content of the Bill as it affects Wales was to protect the devolution settlement and that she was satisfied this had been secured. The Minister also reported that she would continue to work closely with the UK Government during the progress of the Bill to ensure that the interests of Wales were reflected in final legislation.

6. In taking evidence from the Minister, the Committee sought clarification and further details on the following issues:

- Details of how the proposed streamlining and improvement of the planning system in England and Wales would operate in practice;

- The remit and membership of the Infrastructure Planning Commission (IPC), and an apparent lack of democratic accountability in its decisions;
- The need for the Welsh Assembly Government to have decision-making powers for major electricity generating projects located in Wales, to enable to plan its own energy supply and distribution;
- The need to ensure that Welsh Ministers are statutory consultees on relevant national policy statements produced by the UK Government, to ensure existing and future Welsh policy is reflected;
- The Welsh Assembly Government's intention to secure legislative competence for the National Assembly for Wales in respect of the Wales Spatial Plan and Local Development Plans and the reasons why the Framework Powers announced by the Secretary of State were not included on the face of the Bill;
- The purpose of the Community Infrastructure Levy, its operation in Wales, and its use in conjunction with the use of Section 106 agreements;
- Potential impacts on affordable housing from introduction of the levy and need for the levy to be consistently applied across local authority areas;
- The reason why the Bill does not place duties on local planning authorities in Wales to take action on climate change when preparing their local development plans, when it applies such duties to England;
- The likely introduction in Wales of any changes to streamlining the planning system being made in England and timescales for such introduction; and
- Operation of the proposed appeals process.

7. The Minister offered to issue further Cabinet Statements and to provide Members with regular updates on any substantive amendments to the Bill, as it progressed through the Parliamentary process.

## Recommendations

8. The Committee welcomes the Minister's commitment to protecting the devolution settlement within the scope of the UK Planning Bill and supports her in her ongoing discussions with the UK Government over specific aspects of the Bill. In doing so, the Committee makes a number of recommendations to support her in this regard.

***Recommendation 1:*** The Committee firmly believes that the proposals to establish an independent Infrastructure Planning Commission (IPC) would result in the removal of democratic accountability from the planning process. The Committee is particularly concerned that the creation of an unelected body of experts is contrary to the Welsh Assembly Government's established policy of streamlining the number of such bodies. **The Committee therefore recommends that the Welsh Assembly Government makes representations to the UK Government to exclude Wales from the remit of the Infrastructure Planning Commission, in order to retain democratic accountability in all parts of the planning process in Wales.**

**Recommendation 2:** The Committee fully supports the Welsh Assembly Government in its view that it should have the decision-making power for major energy projects located in Wales, to enable the planning of its own energy supply and distribution. It supports the Minister's view that it is anomalous that the planning responsibility for such projects is not devolved. **The Committee recommends that the Welsh Assembly Government steps up its negotiations with the UK Government with a view to securing amendments to the Bill which would allow devolution of this significant decision-making power.**

**Recommendation 3:** The Committee was concerned that Welsh Ministers are not identified in the Bill as statutory consultees on relevant national policy statements and that existing and future Welsh policy could be compromised as a result. **The Committee therefore recommends that the Welsh Assembly Government urges the UK Government to introduce an amendment to the Bill in order to make the Welsh Assembly Government a statutory consultee on national policy statements that will impact on Wales.**

**Recommendation 4:** The Committee welcomes the Minister's commitment to provide Members with regular updates on any substantive amendments to the Bill. However, the Committee is disappointed that, due to the lack of detail on the face of the Bill on a number of provisions, it was unable to consider and input fully to the parliamentary process on the impact on Wales of all aspects of the Bill. **The Committee therefore recommends that the Welsh Assembly Government is fully involved in the development of the detail of the Community Infrastructure Levy, before the Bill is amended or regulations introduced.**

**Recommendation 5:** The Committee expresses general concern as to the position of the Welsh Assembly Government within the UK legislative process. The Committee is particularly concerned that the Welsh Assembly Government is not included in the early development stage of UK legislation and so its influence is limited. **The Committee therefore recommends that the Welsh Assembly Government urges UK Government departments to review their procedures to ensure that the Welsh Assembly Government plays a role in the early development of all UK-wide legislation.**

**Recommendation 6:** The Committee fully supports the Welsh Assembly Government's commitment to secure legislative competence for the National Assembly for Wales through the Bill in respect of the Wales Spatial Plan and Local Development Plans. **The Committee recommends that the Welsh Assembly Government continues to progress this matter with the UK Government to ensure that the Measure making powers are added to the Bill, whilst ensuring that the powers of local authorities in the planning process are protected.**

**Recommendation 7:** The Committee heard from the Minister that further amendments to the town and country planning regime proposed for England are also likely to be introduced in Wales, with the Welsh Minister being given the power to commence these provisions as she sees fit and subject to further consultation in Wales. **The Committee therefore recommends that the Welsh Assembly Government should continue to pursue the inclusion of the**

**necessary commencement powers in the Bill and should carry out further consultation before introducing any of these amendments in Wales.**

Mick Bates AM,  
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