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e-mail response sent to: [SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

Dear Sir/Madam,

### **Planning (Wales) Bill**

The Royal Town Planning Institute (RTPI) is the largest professional body for town planners in the UK and Europe and represents more than 27,000 members in approximately 80 countries worldwide, with over 1200 members in Wales. We have been shaping planning policy and raising professional standards for over 100 years and we're the only body in the UK to confer Chartered status to planners, the highest professional qualification. We champion the power of planning in creating prosperous places and vibrant communities. Our ambition is to promote healthy, socially inclusive, economically and environmentally sustainable places.

Thank you for the opportunity to comment on the Planning (Wales) Bill, following our oral evidence session on the 6 October. We have worked closely with the Law Commission in the development of this Bill and we welcome the principles of simplification, consolidation and codification of planning law in Wales.

We recognise the complexity and sometimes confusing structure of the existing legislative framework and in particular the lack of clarity about which UK Government legislation applies in Wales and the consequent difficulties this causes for

practitioners and users. One of the objectives of consolidating planning legislation in the form of a Code is to provide easier access to planning legislation for users, and we welcome the logical and sequential structure that a code provides. It is important that this should be preserved whenever additions and modifications are made to the law in the future. We hope that the code will provide the ability to track changes in legislation in the future and be clear about what has been changed, when and why. Planning practitioners will have to become familiar with the language and new section numbers set out in the Bill, where it differs from legislation we've become very familiar with since 1990. The Tables of Destinations ([pri-ld17396-em-c1-en.pdf](#)) is extremely helpful showing where provisions in existing legislation now sit in the Bill. The Table of Destinations should continue to be updated as the Bill continues its journey through the Senedd.

Para 10 of the Explanatory Notes makes a general statement that "The Welsh Government's intention is that primary, secondary and tertiary legislation (mostly guidance) will in future be categorised and published as coherent codes of law" which we support although this does not specify exactly what is included or timescales.

It is unclear how the planning system will continue to operate smoothly if the various Regulations are not in place in time for the enactment of the Bill. It is essential that this is clarified, as existing Regulations, SIs and secondary legislation hang from legislation that will become England-only and presumably will no longer apply in Wales. It is essential that there are no unintended gaps that prevent the functioning of the planning system when the new Bill is enacted.

As part of our discussions on the Bill, our members have raised the following questions which might be useful for further consideration by the Bill drafters. These are set out below:

- Would the reference to the Pipelines Act at s6(4) sit more logically as section 3, sub-section (c), stating for example, certain works relating to pipelines as set out in section 5(2) of the Pipe-lines Act 1962 (c. 58).
- It is unclear if s6(3)(a)(ii) of the Bill is referring to development subject to Environmental Impact Assessment. This should be made clear within the section.
- S9(1) states that “a joint planning area may not include any part of a National Park for which there is a National Park authority ...” We question why a National Park cannot be part of a joint LDP, as this might be helpful in the future.
- The wording in s10(2) should clarify that “approved or published” refers to Future Wales: The National Plan 2040 and does not refer, for example, to a local Authority decision to approve and/or publish its Deposit LDP for consultation.
- S11(2) of the Bill sets out a statutory purpose of planning, for plan-making. S51(2) does the same for development management. Enforcement does not appear to be referenced. We strongly support the inclusion of these sections but believe that purpose of planning would be better set out at the top of the Bill as an overarching clause that applies to the entire set of provisions included in the Bill.
- Should 24(2) refer to “a resolution by a planning authority or plan-making authority”, to cover Strategic Development Plans?
- We note major applications are not defined in the Bill and furthermore it is not explicit in the Bill that pre-application consultation applies only to major

development, at present. The Bill reads as though the PAC process would apply to all development. We assume 52(6)(b) allows Regs to define when PACC applies? If so, this sets out the importance of having Regs and all subordinate documents in place prior to enactment of the Bill.

We would suggest changes to the wording and headings in this section of the Bill to avoid the impression that the subsection applies to all applications.

- S52(8)(d) appears to provide for Regulations to “require” the consultee to prepare a report to Welsh Government on pre-application engagement, not the developer. This perhaps is intended to mean statutory consultees rather than the general public or community groups. This should be clarified.
- In relation to s86 (combination of applications for planning permission with other applications), RTPI Cymru does not support the unification of listed building consent and planning permission and believes that further discussion is required regarding the unification of conservation area consent. We query if such a combined consent would be regarded as a new provision and not appropriate for the current consolidation exercise?
- The tables set out at s113 of the Bill provide clarity on time limits for taking enforcement action, however, we would suggest expanding the sentence to include the underlined section for clarity, “any other breach of planning control” including any other change of use and any breach of condition”. This section does not appear to codify case law regarding concealment, and we question whether this should be included?
- We question whether there is a conflict between s120(5) and s123(3) in relation to posting a notice on the land and serving on the owner/occupier of the land?

- In relation to Section 231(1)(b)) it would be helpful to clarify, perhaps in the definitions at s408, that the reference to public safety includes highway safety.
- The Explanatory Notes, para 260 currently states, “the term relevant consideration replaces the term material consideration used in previous planning Acts but has the same meaning”. A clear statement to this effect should be set out in the Bill once approved and enacted, perhaps in s408 with the definitions.
- s126(4) specifies a fine up to Level 3 for certain enforcement offences. The low level of fine means it offers very little deterrent to developers and we would ask that this be increased to a higher level of fine.
- s165 - s171 does not appear to refer to the pooling restriction. Has this been removed from the Bill or does s203(4)(d) allow Regs to address this provision? We would welcome the removal of the problematic pooling restriction, which is a longstanding ask of our members to the Welsh Government.
- s408 of the Bill would benefit from a definition of the term “occupied”.

Going forward, there appears to be a place for a ‘Guide’ to Welsh Planning Law which explains planning law as it applies in Wales and to what extent legal principles established through judgments of the Courts are applicable in Wales. Following enactment of a Welsh Code the current legal reference books, which are structured primarily around the law as it applies in England, will become less helpful to practitioners working in Wales.

If you require further assistance, please contact RTPI Cymru on 020 7929 8197 or e-mail Mark Hand at [walespolicy@rtpi.org.uk](mailto:walespolicy@rtpi.org.uk)

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Mark Hand MRTPI', with a horizontal line underneath.

Mark Hand MRTPI  
**Director of Cymru**