



Eich cyf | Your ref
Ein cyf | Our ref:

Chief Planning Officers
Welsh Local Planning Authorities

07 December 2015

Dear colleagues

**Planning (Wales) Act 2015 (Commencement No. 1) Order 2015 and
Planning (Wales) Act 2015 (Commencement No. 2 and Transitional and Saving
Provisions) Order 2015**

The Minister for Natural Resources has signed, and thereby made the above named orders on 5 October and 2 December, respectively. The Orders bring into force a series of provisions from the Planning (Wales) Act 2015 that largely focus on changes to the development plan and policy making functions. This letter sets out the practical effect of the commencement of the various provisions contained in both commencement orders.

Strategic Development Plans

Provisions in section 4 and part 1 of schedule 1 of the Planning Act were commenced on 5 October to enable the process for designating strategic planning areas and establishing strategic planning panels. This allows local planning authorities to consider the merit and rationale for establishing a strategic development plan area.

National Development Framework

Section 3 of the Planning Act enables the Welsh Ministers to prepare the National Development Framework for Wales (NDF), which will set out the strategic land use policies that the Welsh Ministers consider are appropriate.

The NDF will broadly follow the same preparation process as a Local Development Plan (LDP) and, once published, will require all other forms of development plan, such as Strategic Development Plans (SDPs) and LDPs, to conform to the policies within it. However, until the NDF is produced and approved, you should continue to have regard to the Wales Spatial Plan.



Work will now begin on establishing an evidence base to inform the content of an NDF, and on production of a delivery timetable and statement of public participation, which we aim to publish in summer 2016.

Sustainable development

The Planning Act sets out a statutory purpose for planning in Wales, which requires local planning authorities, the Welsh Ministers and other public bodies, when undertaking any development plan or development management functions, to contribute to improving the well-being of Wales as part of carrying out sustainable development. The provision provides a direct link to the requirements to carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015 (“the FG Act”) and complements the aims and objectives of that Act.

The FG Act introduces a series of well-being goals, to strive towards in pursuit of sustainable development. The FG Act requires public service boards to prepare and publish local well-being plans, setting out how the well-being goals will be pursued. Local planning authorities are required to take into account the well-being plans in the preparation of LDPs and the making of planning decisions.

Section 2, when it comes into force on 01 April, will replace and so repeal elements of a similar section in the Planning and Compulsory Purchase Act 2004. The duty which was included in the 2004 Act has required that the planning system hold the principle of sustainable development at its core, or in other words, sustainable development has been embedded within the planning system for many years. This duty is being replaced by a very similar duty to comply with sustainable development as set out in the FG Act.

Planning Policy Wales will be updated in the short term, to provide you with clarification and guidance on how the goals of the FG Act should be taken into account in plan preparation and making planning decisions. We will also undertake a full review of PPW to align its planning policies with the well-being goals, in due course. More information about how PPW will be revised to align with the requirements of the Well-being Act is available in the Planning Policy Prospectus (January 2015) published on the Welsh Government website.

Welsh Language

The Planning Act introduces legislative provision for the Welsh language in the planning system. Taken together, Sections 11 and 31 ensure that the Welsh language is given consistent and appropriate consideration in both the preparation of development plans, and the making of planning decisions. These powers will come into force on 04 January 2016.

Section 11 requires local planning authorities to take the Welsh language into account when undertaking a sustainability appraisal, as part of LDP preparation. This ensures that the appraisal must include an assessment of the likely effects of the plan on the use of Welsh language in the community. Section 11 will be subject to a saving provision, ensuring that the introduction of this duty does not impact on any Local Development Plan that has already been submitted for examination by 04 January 2016.

If an LDP has not been submitted for examination, the authority must carry out an assessment of impacts on the use of the Welsh language in accordance with Section 11.

Where the authority's current single integrated plan has identified the Welsh language as a priority and the authority has begun or completed its assessment, it should be able to demonstrate the linkage between consideration for the Welsh language and the overarching Sustainability Appraisal for the LDP, as set out in TAN 20.

Section 31 clarifies that, in dealing with applications for planning permission a local planning authority shall have regard to considerations relating to the use of the Welsh language so far as material to the application. There are no transitional or saving provisions for Section 31, which means that the power will apply to any planning application you are considering from 04 January 2016 onwards, regardless of when the application was submitted.

The provisions do not apportion any additional weight to the Welsh language in comparison to other material considerations. Whether or not the Welsh language is a material consideration in any planning application remains entirely at the discretion of the local planning authority, and your decision whether or not to take Welsh language issues into account should be informed by the consideration you have given to the Welsh language as part of the LDP preparation process.

Local Development Plans

The intent of the changes to the LDP system introduced in Commencement No. 2 Order, is that local planning authorities not only proceed with the adoption of LDPs, but also ensure that the next generation of LDPs are prepared and adopted in a timely manner.

Section 12 of the Act introduces an end date for LDPs. Once the LDP end date is reached, the LDP ceases to be a development plan for the purposes of decision making. Consequently, planning applications determined after the LDP expires must be determined in the light of the remaining extant tiers of development plan, such as the forthcoming NDF, any relevant SDP, and national planning policy as expressed in Planning Policy Wales.

Section 13 prevents the withdrawal of an LDP up to the point where local planning authorities submit the local development plan for examination, without the prior approval of the Welsh Ministers.

Section 14 enables the Welsh Ministers to direct two or more local planning authorities (not including National Park authorities) to prepare a joint LDP.

These powers will come into force on 04 January 2016 and there are no transitional or savings provisions. The accompanying regulations for these powers will be introduced in summer 2016.

Joint Planning Boards

The Town and Country Planning Act 1990 contains a number of provisions relating to joint planning boards, enabling the Welsh Ministers to direct two or more local planning authorities to merge. The Planning (Wales) Act 2015 extends and amplifies those powers.



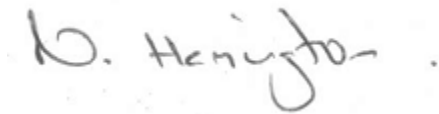
Sections 15 (1) and 15 (2) ensure that a joint planning board can carry out development plan and Community Infrastructure Levy functions. Section 40 grants joint planning boards the powers of a hazardous substances authority, except for certain circumstances. Section 42 of the Act also enables the Welsh Ministers to amend other legislation of certain description, if they exercise their powers to bring a joint planning board into being.

National Parks are excluded from existing joint planning board powers. However, Section 41 enables the Welsh Ministers to extend the application of joint planning board provisions to include the development management functions of National Parks, by means of regulations; however, the development planning powers of the National Parks are unaffected, and any LDP would remain “the plan” for a park authority which is part of a joint planning board.

These changes introduce flexibility for the Welsh Ministers over the types of bodies that can fulfil the role of a local planning authority with regard to statutory planning functions, in order to deliver efficient, effective and resilient planning services across Wales.

Taken together, the enactment of all the above changes will make the planning system increasingly efficient and responsive to the needs of the communities that it serves. I look forward to working in partnership with you to implement these positive changes, via the production of secondary legislation and further appropriate guidance, in due course.

Yours sincerely



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