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**LETTER FROM THE PRINCIPAL PRIVATE SECRETARY, FIRST MINISTER
REQUESTING CONSENT OF HER MAJESTY**

To: The Private Secretary to The Queen
Buckingham Palace,
London
SW1A 1AA

Dear Sir

PLANNING (WALES) BILL

Please find enclosed two copies of the Planning (Wales) Bill, for which the Consent of Her Majesty is sought.

Statutory background

Section 111(4) of the Government of Wales Act 2006 states:

“The standing orders must include provision for securing that the Assembly may only pass a Bill containing provisions which would, if contained in a Bill for an Act of Parliament, require the consent of Her Majesty or the Duke of Cornwall if such consent has been signified in standing orders.”

Standing Order 26.67 of the National Assembly for Wales further states:

“If a Bill contains any provision, or is amended so as to include any provision, that would, if contained in a Bill for an Act of the United Kingdom Parliament, require the consent of Her Majesty, or the Duke of Cornwall, the Assembly must not debate the question whether the Bill be passed (or approved following Reconsideration) unless such consent to such a provision has been signified by a member of the government during proceedings on the Bill at a meeting of the Assembly.”

Purpose of the Planning (Wales) Bill

The Planning (Wales) Bill (“the Bill”) comprises a set of comprehensive and integrated provisions intended to reform the operation of the planning system in Wales in support of society’s needs, helping to provide the homes, jobs and infrastructure that we need collectively and individually. The provisions seek to amend the legislative basis for the planning system through a series of changes to existing planning legislation principally contained in the Town and Country Planning Act 1990 (TCPA) and Planning and Compulsory Purchase Act 2004 (PCPA). The provisions reflect established practice in relation to planning law and in many cases

comprise framework powers with detailed implementation reserved for subsequent secondary legislation.

The Bill is made up of 8 Parts and 7 Schedules. Parts 1 and 8 contain the general and overview provisions.

Part 2 of the Bill re-focusses the Wales Spatial Plan into a National Development Framework, introduces a new tier of Strategic Development Plans where there are significant planning issues which cross a number of local planning authority (LPA) areas and ensures that Local Development Plans are prepared and kept up to date.

Part 3 introduces pre-application procedures in Wales. It is proposed that applicants will be under a new duty, pursuant to section 15 of the Bill, to carry out pre-application consultation in respect of proposed development. Pursuant to section 16 of the Bill, LPAs will be under a duty to provide a pre-application advice service when it is requested by applications. It is intended that applicants will benefit from the pre-application consultation process and the availability of a statutory pre-application service by LPAs because it should allow problems with proposed applications to be identified early in the process so that they can be addressed before the application is submitted. The intended result is that once the application is submitted, it will proceed more smoothly and quickly.

Part 4 provides for certain types of applications to be made directly to the Welsh Ministers. It introduces the Developments of National Significance in Wales which are, pursuant to section 17 of the Bill, to be made directly to the Welsh Ministers instead of the LPA. Provision is also made for applications for consents which are secondary or connected to the Development of National Significance to also be made to the Welsh Ministers. Pursuant to section 20 of the Bill, provision is made to the effect that certain other applications for planning permission may be made to the Welsh Ministers instead of to the LPA in certain circumstances.

Part 5 is about development management and makes provisions to make the planning applications process consistent and fair whilst reducing complexity and improving transparency in the development management process.

Part 6 is about enforcement, appeals and other planning proceedings and will enhance the transparency, speed and fairness of the appeal system here in Wales.

Part 7 of the Bill is about town and village greens. It makes provision restricting the period within which, and the circumstances in which, applications to register land as a town or village green may be made and about the determination of fees in relation to applications. The intended effect of the provisions in Part 7 is to ensure that planning and town and village green legislation is consistent and compatible and cannot be used to frustrate legitimate objectives. The provisions prohibit applications being made to register land as a town and village green where the land has entered the planning system (i.e. been identified for development in a development plan, has received planning permission or is the subject of an applicant for planning permission, where a draft Local Development Order has been published, or where an application under the Transport and Works Act Order has been made). Landowners will be able to submit declarations to the commons registration

authority, rendering land immune from registration, provided that certain criteria are met. This will encourage landowners to permit recreational use of their land, confident that such use could not give rise to a future claim for registration as a green.

How the Bill could affect the Crown

The Bill is amending the planning system in Wales which, pursuant to the Planning and Compulsory Purchase Act 2004 binds the Crown. Both The Queen and the Prince of Wales gave their consent to the PCPA and consent has also been given to various UK Acts introducing amendments to the planning system since the 2004 Act. The provisions of the Bill will also bind the Crown.

The Bill amends, or inserts new provisions into, Acts that already say their provisions bind the Crown (see TCPA s292A, PCPA s111, Planning (Listed Buildings and Conservation Areas) Act 1990 s82A, Planning (Hazardous Substances) Act 1990 s30A, Commons Act 2006 s60). There is an implication that the Crown is bound by the amendments, or provisions amend or refer to provisions about Crown application in a way that makes it clear that the Crown is intended to be bound.

If planning permission is sought for the development of land which belongs to the Crown, the planning system in Wales as amended by the Bill will apply.

Cabinet Office Guidance explains that there is an ancient prerogative right to the mining of all precious metals. Mining falls within the definition of development in section 55 TCPA. If planning consent were sought for mining, the planning system in Wales as amended by the Bill would apply.

Our view is that no other prerogative rights are affected by the Bill.

The Queen's consent in respect of the provisions of this Bill will be taken to include consent on behalf of the Duke of Cornwall.

Amendments

It might be helpful to be aware that the Minister for Natural Resources intends to table amendments to Parts 2 and 7 of the Bill. Where necessary, the intention is to seek consent for these and any other amendments tabled at stage 2 if they have been agreed by the National Assembly for Wales (i.e. at the end of Stage 2).

Consent

I respectfully ask The Queen for consent, in so far as she may be affected by the Bill as introduced. Please be aware that, if granted, consent will need to be signified to the National Assembly for Wales on 5 May 2015.

Thank you for considering this request and please let us know if we can be of any further assistance to you.

Yours sincerely

Des Clifford
Principal Private Secretary, First Minister

Enc: Two copies of the Bill

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