



REGENERATION AND ENVIRONMENT SCRUTINY COMMITTEE – 18TH FEBRUARY 2014

SUBJECT: POSITIVE PLANNING - PROPOSALS TO REFORM THE PLANNING SYSTEM IN WALES

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To inform Members of the publication of the Draft Planning Bill.
- 1.2 To highlight and comment on the package of changes proposed to deliver comprehensive reform of the Planning System in Wales.
- 1.3 To seek Members' views on the proposed changes in order to submit comments to the Welsh Government in respect of the proposed reforms.

2. SUMMARY

- 2.1 This consultation paper entitled *Positive Planning-Proposals to reform the planning system in Wales* contains the Welsh Government's proposals to change the planning system. Proposals to reform the planning system in Wales and the Draft Planning Bill draws the key conclusions from Welsh Government research into the planning system in Wales and sets out in detail the WG's proposals for reform of the Welsh planning system.
- 2.2 The proposals are grouped into four themes:
 - Supporting culture change;
 - Active stewardship;
 - Improving collaboration; and
 - Improving local delivery
- 2.3 Each of these themes comprises a number of key proposals, which are contained in the consultation paper. Each proposal raises questions from Welsh Government that command a response. These are outlined in the report and an officer response to each is made.
- 2.4 Following the closing date for this consultation (26th February 2014) all responses will be analysed and considered to refine the content of the Bill to be introduced into the National Assembly for Wales. The WG intends to introduce the Planning (Wales) Bill into the National Assembly for Wales during 2014.

3. LINKS TO STRATEGY

- 3.1 The Town and Country Planning system is designed to regulate the development and use of land in the public interest. The Planning and Compulsory Purchase Act 2004 requires the Council to prepare a Local Development Plan for the County Borough to act as a framework

for the management and use of land within its administrative boundary. This consultation outlines a package of reforms that will impact on the way in which Caerphilly County Borough Council as the Local Planning Authority will in future deliver its strategic planning and development management functions.

4. THE REPORT

Background

- 4.1 This consultation paper entitled *Positive Planning-Proposals to reform the planning system in Wales* contains the Welsh Government's proposals to change the planning system. It acknowledges the important role that the planning system must play in shaping Wales's future by helping to deliver the growth, jobs, homes and infrastructure that the country needs whilst safeguarding the most important natural resources.
- 4.2 In order to achieve this objective the Welsh Government (WG) considers that the planning system must be more than a regulatory activity, as a system that is purely regulatory is in the WG's view is likely to deliver negative outcomes. It is therefore the government's aim to reposition Planning as a tool to manage change in the public interest and support development by guiding it to appropriate locations.
- 4.3 A package of changes is therefore proposed to deliver comprehensive reform of the Planning system in Wales. This requires changes to primary legislation, set out in the draft Planning (Wales) Bill, which accompanies the consultation paper, and changes to secondary legislation, policy and guidance.
- 4.4 The most important aspect of the consultation paper confirms the WG's desire to drive a culture change by all involved in the planning system including government, local planning authorities (LPA's), applicants, statutory consultees and citizens. The WG believes that there is a need for a change in attitude, away from regulating development towards encouraging and supporting development.
- 4.5 Research undertaken by the WG in preparation for the Draft Planning Bill indicates that the need for a planning system is accepted by all, however there is widespread consensus that it could be more effective. The Consultation Paper *Positive Planning Proposals to reform the planning system in Wales* and the Draft Planning Bill draws the key conclusions from this research and sets out in detail the WG's proposals for reform of the Welsh planning system.
- 4.6 Comments on the proposals contained in the consultation paper and the proposed Draft Planning Bill are invited to be submitted to the Welsh Government by 26th February 2014. This report outlines those areas that are of specific interest to Caerphilly County Borough Council and provides officer responses to the matters raised by WG within the consultation paper, together with some additional comments. Once considered by members these comments will need to be formally submitted to WG as the Council's comments on the consultation paper and the Draft Planning Bill.
- 4.7 Following the closing date for this consultation (26 February 2014) all responses will be analysed and considered to refine the content of the Bill to be introduced into the National Assembly for Wales. The WG intends to introduce the Planning (Wales) Bill into the National Assembly for Wales during 2014.

Welsh Government Key Proposals

The proposals are grouped into four themes:-

- Supporting culture change;
- Active stewardship;
- Improving collaboration; and

- Improving local delivery

4.9 Each of these themes comprises a number of key proposals which are contained in the consultation paper at the paragraphs specified as follows:-

4.10 To **support culture change** the WG intend to:-

- Establish a national planning advisory and improvement service hosted by the Welsh Government (paragraph 3.18).
- Work with stakeholders to develop a competency framework for planning practitioners and elected members to describe the skills, knowledge and behaviours necessary to deliver planning reform (paragraph 3.24).

4.11 To be **active stewards** of the planning system the WG will:-

- Provide a legal framework for the preparation of a national land use plan, the National Development Framework (NDF) to replace the Wales Spatial Plan (WSP) (paragraph 4.7).
- Introduce a new category of development for the largest infrastructure planning applications (developments of national significance) where Welsh Ministers will be responsible for taking planning decisions (paragraph 4.54).

4.12 To **improve collaboration** the WG will:-

- Update the legal framework which would allow LPA's to be merged to create joint boards covering larger areas (paragraph 5.6).
- Establish a system of Strategic Development Plans (SDP's) to address issues of greater than local importance such as housing land supply (paragraph 5.21).

4.13 To **improve local delivery** of planning services WG intend to:-

- Introduce standardised annual performance reporting for LPA's. Where performance is consistently poor there will be an option to submit defined planning applications to Welsh Ministers rather than the LPA (paragraph 6.10).
- Refine the Local Development Plan (LDP) system, and promote collaboration between LPA's and town and community councils to produce Place Plans (paragraph 6.20).
- Increase the effectiveness of the Development Management (DM) system, including frontloading processes to provide effective pre application advice and community engagement for the largest planning applications (paragraph 6.50).

4.14 After each proposal the WG requires a response to a set of questions related to that proposal. These are also considered in turn throughout this report.

4.15 Where these proposals require changes to be made to legislation these are outlined in the consultation paper in detail, however these are generally legal and technical matters and are not repeated in this report.

Council Consideration of the Key Proposals

4.16 Each theme will now be considered in turn and pertinent issues raised and commented upon. This will enable members to consider the implications of the proposed planning reforms and the draft planning bill in terms of the future delivery of the planning service within Caerphilly County Borough.

Theme 1: Support culture change

- 4.17 The WG recognise in the consultation paper that it is not possible to legislate for culture change. Culture change is about ensuring that the planning system as a whole is used in a proactive way. Importantly WG perceives that it is about changing from a defensive negative approach to a positive one. Put simply planning isn't about stopping development it should be about encouraging development to happen in the right location and in a timely manner.
- 4.18 The development plan should provide a positive framework for sustainable and quality development, enabling the provision of homes and economic investment, protecting all that is best in local environments. The consultation paper therefore emphasises the need for Local Planning Authorities to have up-to-date adopted Local Development Plans (LDP) in place to:-
- provide the local planning framework for sustainable development;
 - give certainty for developers and communities;
 - maximise investment for homes, business, and communities; and
 - assist the efficient determination of planning applications.
- 4.19 This re-emphasis of the importance of the plan-led system and the recognition of the importance of the development plan to stimulate economic growth is welcomed.
- 4.20 The WG requires the LPA to ensure seamless integration between its strategic planning function and its development management function to enhance service delivery. In WG's view, this requires co-location of teams and the breaking down of any professional barriers that have emerged. In Caerphilly, the strategic planning function and the development management function are already closely integrated and work on progressing the first review of the Caerphilly County Borough Local Development Plan is resulting in a strengthening of this relationship through the sharing of resources between the two teams.
- 4.21 It is agreed that this joint approach to service delivery will deliver a more responsive and transparent planning service that supports new and enhanced development projects to come forward. The recognition of the integration between strategic planning and development management to deliver an effective service is to be welcomed.
- 4.22 Part of culture change is also about managing expectations on what the planning system can deliver. The planning system is often seen to be the solution for dealing with many other policy objectives, termed as 'planning plus'. The need to deal with such matters through the planning process has resulted in more and more complex and detailed supporting information being required as part of the process. The WG planning reform agenda is seeking to reduce the complexity of the planning process, so that planning can focus on the planning fundamentals of the process. Importantly it recognises that planning is about managing the use and development of land in the public interest and any reforms that can take planning back to basic are to be welcomed. The desire therefore by WG to tackle the 'planning plus' culture is extremely important if the planning system is to become more responsive to the needs of service users and is supported.

Planning Advisory and Improvement Service

- 4.23 The Welsh Government recognises that whilst there is an overwhelming desire to streamline the planning process applications are becoming increasingly complex and technical, they therefore propose to establish a national planning advisory and improvement service (PAIS) hosted by the Welsh Government. The PAIS would have the following broad remit:-
- Identify and disseminate good practice and standards,
 - assist sharing of expertise and resources between LPA's;
 - Identify, promote and target training requirements for planning practitioners and members (working with stakeholders);
 - Provide targeted, specialist advice and mentoring; and
 - Publicise, disseminate and educate about WG planning initiatives, such as changes to DM

policies and procedures.

Q1. Do you agree that the proposed remit for a Planning Advisory and Improvement Service will help LPA's and stakeholders to improve performance?

4.24 The broad remit of the PAIS appears appropriate. Experience in England with the Planning Advisory Service indicates that this type of service provides a valuable resource for LPA's and other stakeholders and an equivalent service in Wales would be welcomed. Possible extension of the PAS England system to Wales may deliver cost savings and enable sharing of best practice as well as avoid duplication.

Q2. Do you agree that existing Welsh Government support arrangements for the built environment sector in Wales should be reviewed?

4.25 Alongside the establishment of the PAIS the Welsh Government propose to review the existing support arrangements for the built environment sector in Wales with a view to reducing duplication and increasing efficiency. It is assumed that this statement would mean that the Planning Improvement Fund (PIF) in Wales would cease to exist, as limited resources would instead be targeted at the PAIS. This would have a financial implication for LPA's that currently benefit annually from the PIF. Notwithstanding the establishment of the PAIS, the continuation of the PIF (albeit in an amended form if necessary) to incentivise LPA's to improve service delivery should be retained. It would also be interesting to see the benefits to local authorities from PAIS – e.g. in England they offer free training to officers and members.

Planning competency framework

Q3. Do you agree that competency frameworks should be prepared for planning practitioners and elected representatives to describe the skills, knowledge and behaviours necessary to deliver planning reform?

4.26 WG considers there would be significant merit in developing a planning competency framework for Wales that is aligned to the planning reforms. The competency framework is proposed to consist of two complementary parts covering planning practitioners and elected representatives. The competency framework would set out the skills, knowledge and behaviours necessary to ensure that planning becomes a positive enabling activity. The principle of establishing a planning competency framework is supported. However there is a need to ensure that the framework is equally applicable to civil servants and ministers with responsibility for planning.

4.27 WG suggests that the PAIS steering group will have a leading role in developing the framework together with representatives from professional bodies, local government and educational institutions. There needs to be recognition of the emotive and political nature of the planning process in developing this framework. Every effort should be made to ensure that there is recognition within the framework that in formulating policy and taking decisions on planning matters that there are very difficult choices to make that are often deeply unpopular with communities but which are necessary in the public interest.

Theme 2: Welsh Government as Active Stewards

4.28 The role of government has traditionally been largely passive, setting the overall framework for the operation of the planning system through the creation of legislation and by providing national policy, guidance and other support. Since devolution, there has been a growing expectation from stakeholders and the public that this passive approach should change and that the Welsh Government should play a more active role in the direct delivery of planning services by adopting an active stewardship role. The consultation paper therefore outlines this significant shift of responsibility from the local planning authority to the Welsh Government.

4.29 The approach that the consultation paper advocates is that planning services must be delivered by the level of government best placed to assess the benefits and impacts of development. It suggests that in most cases this would be the LPA, either individually or in collaboration with others. However there is a suggestion that there is now to be a greater role for the Welsh Government, and for Town and Community Councils in clearly defined circumstances.

National Development Framework

4.30 The Welsh Government proposes to adopt an active stewardship role through new approaches that include a statutory requirement for WG to prepare a national land use plan.

4.31 The National Development Framework (NDF) will replace the Wales Spatial Plan (WSP) and identify proposals of national significance (including infrastructure). Unlike the WSP the NDF will have development plan status, which means that in future the LDP will need to be in conformity with the NDF.

4.32 The NDF will:-

- Set out the Welsh Government's land use priorities by identifying key locations to accommodate change and infrastructure investment;
- Provide a national land use framework for Strategic Development Plans (SDP's) and Local Development Plans;
- Co-ordinate and maximise the potential benefits arising from funding streams including the Wales Infrastructure Investment Plan (WIIP), UK Government infrastructure investment, European Union (EU) assistance and private sector investment; and
- Provide the development plan context for Welsh Ministers to make decisions on Developments of National Significance.

4.33 It is proposed that the NDF will concentrate on those land use issues of national significance, which the planning system is able to influence and deliver. Notably the NDF will not set a national housing target or housing targets for each SDP area. The strategic planning panel (details explained in 4.71) responsible for preparing the SDP will set a level of housing provision for each LDP, which those plans then have to conform to. Where there is no SDP, it is proposed that the current position of an LDP utilising the latest WG projections to inform its housing provision will be retained. WG consider it important that locally elected politicians continue to have an influence on the process.

4.34 As the NDF is an expression of WG policy, it is not proposed to scrutinise the plan through a traditional examination process. However WG acknowledge the need for scrutiny to ensure transparency and credibility of the framework and so propose that the NDF is subject to scrutiny via the National Assembly for Wales.

Q4. Do you agree that the NDF will provide a robust framework for setting national priorities and aid delivery?

4.35 The introduction of a new national land use plan in the form of the NDF to replace the Wales Spatial Plan is to be welcomed. This will enhance the ability of Wales to set and deliver national aims, objectives and priorities to inform future investment decisions, particularly in terms of nationally important infrastructure projects such as transport and energy schemes. Moreover, the NDF will also provide the strategic framework for Strategic Development Plans and Local Development Plans and inform the key areas for growth for the development plan for the next 20 to 30 years. However given the NDF's proposed status as part of the development plan, it is disappointing that there is not a mechanism for the NDF to be formally examined in public. All other proposed tiers of the development plan (SDP's and LDPs) are, or are proposed to be, subject to this level of scrutiny and it seems only appropriate for the NDF to be similarly so.

National Planning Policy and Guidance

- 4.36 The review and restatement of national planning policy is essential in order to ensure that it continues to provide a clear and consistent basis for planning decisions. The introduction of the NDF would mean that WG could include location specific land use planning policies in one document. This would also allow Technical Advice Notes (TAN's) that include location specific policies, such as TAN 8 Renewable Energy, to be revised.
- 4.37 WG also proposes to reduce the amount of planning policy by combining 'Minerals Planning Policy Wales' (MPPW) with PPW to create a single document, which contains all national land use and mineral planning policies.

Q5 Do you agree that Planning Policy Wales and Minerals Planning Policy Wales should be integrated to form a single document?

- 4.38 Minerals Planning Policy Wales pre-dates PPW and has been updated less frequently. It currently does not reflect the introduction of the LDP system. WG consider that combining both documents, this will ensure that national planning policy is integrated, user friendly and has no areas of duplication. Officers agree that this is a positive step and is in line with the practice of local planning policy documentation, which is required to incorporate minerals policy as appropriate.

Preparation of a core set of national development management policies

- 4.39 WG are keen to ensure that in future LDPs are prepared and reviewed quickly. WG therefore propose to prepare and agree a core set of national development management (DM) policies to help to achieve this objective. Only exceptionally and where local evidence justifies it, would LPA's then need to diverge from the core set of national DM policies. This will allow LDPs to focus on local issues such as identifying sites for development and areas for protection and enhancement.
- Q6. Do you agree that a core set of development management policies should be prepared for consistent application by all local planning authorities?**

- 4.40 It is agreed that this approach would result in a reduction in the length, complexity and cost of LDPs; and provide greater consistency and clarity of policy, which will be of benefit to applicants and communities.

A new development management hierarchy

- 4.41 WG propose to establish a development hierarchy to ensure that planning applications are dealt with in a proportionate way at the most appropriate level of government, based on the likely impacts and benefits from development. They therefore propose to introduce a new planning hierarchy to allow different types of planning application to be dealt with differently.
- 4.42 The proposed planning hierarchy splits development proposals into four categories, namely Developments of National Significance, Major Developments, Local developments and Permitted Developments. Specifically the consultation paper proposes a new role for Welsh Ministers in assuming responsibility for planning decisions on the largest and most technically complex devolved planning applications where benefits and impacts are of national significance. Annex B to the consultation report identifies the thresholds for the various forms of development that would fall within each category. The paper also outlines the proposed procedures for such applications.
- 4.43 It is worthy of note that the Independent Advisory Group set up to look at the planning system endorsed the establishment of a separate application procedure for nationally significant development schemes, other than those which are not currently devolved. It recommended introducing a procedure to allow for the determination of such applications, along with associated development and ancillary consents, by one authority.

- Q7. Do you agree that the proposed development hierarchy will help to ensure that planning applications are dealt with in a proportionate way dependent on their likely benefits and impacts?**
- Q8. Do you agree with the proposed categories and thresholds for Developments of National Significance set out in Annex B?**
- Q9. Do you agree with the proposed categories and thresholds for Major Developments of set out in Annex B?**
- 4.45 Yes, however the success of the new system will depend on it being properly resourced, and structured in a way that ensures that applications for developments of national significance (DNS) are processed in a timely manner whilst giving all stakeholders an opportunity to take part.
- Q10. Do you agree DNS applications should be subject to mandatory pre-application notification, and consultation?**
- 4.46 It is proposed that DNS applications should be subject to mandatory pre-application notification of and consultation with Welsh Ministers, the local planning authority, statutory consultees and the public. A statement of pre-application consultation will then have to be submitted with the final DNS application.
- Q11. Do you agree that a fee should be charged for pre-application advice for prospective DNS applications?**
- 4.47 Yes, early engagement with all stakeholders will help identify the potential problems and solutions, the information needed to support the application, and allow all parties, particularly the public, to prepare fully for the final submission. Many local planning authorities now charge for pre-application discussions, and the same should apply for DNS schemes, which will be larger again than those that the local planning authorities will deal with.
- 4.48 DNS applications will be submitted to Welsh Ministers, as will what are known as connected applications, such as those for electricity sub-stations, common land consents, listed building consent, scheduled ancient monument consent and hazardous substances consent. This is to ensure that one body considers all matters at the same time. The call-in procedure would also allow Welsh Ministers to call in a connected application. Once notified, the LPA will have the opportunity to submit a local impact report, but may also make separate representations on the merits of the proposal. The developer will be given only one opportunity to amend the scheme, which may be followed by further consultation. On completion of the consultation stage, the Welsh Ministers, or their appointed person will examine the proposal, either by way of written representations, hearing or formal inquiry. Once the examination of the application has been completed, it is proposed that the appointed person will compile a report for the consideration of the Welsh Ministers, who will determine the application.
- Q12. Do you agree that the Planning Inspectorate Wales is the most appropriate body to undertake the processing of a DNS application?**
- 4.49 The important thing is that whichever body takes on that responsibility, it should be properly resourced to do so.
- Q13. Do you agree that only one round of amendments to an application for DNS should be permitted after it has been formally registered?**
- 4.50 Yes, on the basis that the applicants will have the opportunity to develop their scheme through the initial consultation process and therefore should have taken most issues into account before making the final submission. However, consideration also needs to be given to the disbenefit of making an applicant start the whole process again if the one opportunity to amend the proposal has been utilised. Maybe a shorter process could be considered for a re-

submitted scheme if the original scheme was refused because further amendments could not be carried out.

Q14. Do you agree with the proposals for handling connected consents?

4.51 Yes, because it will ensure that all the implications of a DNS scheme will be considered at the same time, and make the process simpler for developers and other stakeholders.

Q15. Do you agree that examination should follow a similar procedure to that proposed for call-ins and appeals?

4.52 Yes - similar processes for similar procedures will ensure a simpler system that will be easy to understand

4.53 Once determined, it will then become the local planning authority's responsibility to deal with applications to vary or remove conditions, discharge conditions, take enforcement action, and complete and enforce section 106 agreements.

Q16 Do you agree with the proposed division of responsibilities between the Welsh Ministers and the local planning authority at the post-determination stage?

4.54 The important thing is that whichever body takes on those responsibilities, it should be properly resourced to do so.

Planning appeals

4.55 It is proposed to introduce measures to reduce the time taken to determine an appeal and ensure greater transparency in decision-making. The proposed changes include:

- A requirement for appellants to submit their full statement of case when an appeal is made;
- The submission of a draft Statement of Common Ground when an appeal is made, where a hearing or inquiry is requested;
- The LPA and interested parties to submit their response to the appeal and formal comments on the draft Statement of Common Ground (where applicable) within 4 weeks of the start of the appeal; and
- The appellant to submit comments on the LPA's response within 6 weeks of the start of the appeal.

4.56 The Inspectorate will play a greater role in deciding whether there should be written representations, hearing or an inquiry, and the right to appear before an inspector will be removed. Applications at appeal will not be capable of revision. Applicants will be able to appeal against non-determination up to the point when the decision is made by the LPA, but the Council will still have the opportunity to determine the application after an appeal has been made. Costs will be extended to written representation appeals, and Welsh Ministers and the Inspectorate will be able to initiate an award. Charges will be introduced for the submission of an appeal.

Q17. Do you agree that the statement of case and draft statement of common ground should be produced when submitting an appeal?

4.57 Yes - this will make the basis of an appeal clear from the start.

Q18. Do you agree that the Planning Inspectorate should decide how to handle the examination of an appeal?

4.58 Yes - but clear guidance should be produced indicating the basis on which The Inspectorate would make its decisions to make the process transparent.

Q19. Do you agree no changes should be made to the content of an application once an appeal has been submitted?

4.59 No - there should be some flexibility in the system to iron out certain matters at the appeal stage. It should be up to the inspector to decide whether the changes significantly alter the scheme and therefore should be the subject of a further planning application. The inspector should then explain clearly in the decision letter the course of action chosen.

Q20. Do you agree with the proposal for the Welsh Ministers to initiate awards of costs?

4.60 Yes, however clarity is required about the point at which the inspector would indicate this intention. It could not be during the appeal procedure as that would be an indication of the inspector's intentions on the outcome of the appeal. Therefore it would have to be after the decision is made, but both parties would then have to be given the opportunity to support or contest the proposed award.

Q21. Should fees be introduced to cover the costs of the Welsh Ministers associated with an appeal?

4.61 Yes - this would reflect the current fee regime for the submission of a planning application.

4.62 The Householder Appeals System (HAS) has been operated in Wales since 2009, which is a simplified process for dealing with appeals relating to householder development. A similar process is now proposed for small commercial schemes.

Q22. Do you agree that a Commercial Appeals Service (CAS) should be introduced?

4.63 Yes - the HAS has proved simpler and faster without any apparent disbenefits, and should now be introduced for smaller commercial development.

Theme 3: Improve collaboration

4.64 As an integral part of planning reform, the WG intend to put in place legislation that supports improved local planning services. The proposals contained in the consultation paper are capable of implementation regardless of any change in future delivery arrangements. Three areas have been identified where collaboration needs to be improved. These areas are:

- Much closer working between neighbouring local planning services, including formal merger;
- Better joining up between National Park planning services and host local authority social and economic functions; and
- Working together more effectively to plan issues which are of greater than local importance.

Joint Planning Boards

4.65 WG propose to update existing powers to facilitate the reduction of the number of LPA's in order to increase the efficiency and sustainability of local planning services. Existing powers lie within Section 2 (Joint Planning Boards) of the Town and Country Planning Act 1990, which provides the Welsh Ministers with powers to establish a joint planning board as the LPA for two or more areas, each of which is the whole or part of a Welsh county or county borough. WG propose to update legislation to enable a joint planning board to perform all modern LPA functions such as the preparation of a LDP and the collection of the Community Infrastructure Levy (CIL).

4.66 WG invites proposals from LPA's to merge their planning services and indicates their intention to use their powers under Section 2 to formally establish a joint planning board to enable this to happen. A single planning department would serve a joint planning board. Membership of a joint planning board would be drawn from contributing local authorities on a proportionate

basis linked to population. It is proposed that a joint planning board would have sole responsibility for all planning functions except, where a Strategic Development Plan (SDP) is to be prepared.

4.67 WG have no current proposals to initiate the merger of LPA's, however they specifically state in the consultation paper that they do not rule this out in the future.

Q23. Do you agree that local planning authorities should be merged to create larger units?

4.68 The establishment of a joint planning board would be a matter for Members to consider at a future date. However the principle of establishing joint working via a joint planning board is clearly in keeping with the recommendations contained in the 2011 Simpson Report. There is however resource implications associated with joint working, not least the matter of incompatible IT systems, which make this more difficult than it initially appears.

National Park

Q24. Do you think that a National Park Authority should continue to have responsibility for planning in its area?

4.69 Since 1996 the three Welsh National Park Authorities (NPAs) have been the sole LPA for their area, whilst the host local authority retains the social and economic responsibilities for that area. WG believes that this separation of duties has led to tensions and difficulties when preparing LDPs and/or making planning decisions.

4.70 Research undertaken to inform the planning reforms has considered whether or not there is a continued need for NPA's to retain a planning function. The views of stakeholders are therefore sought on this matter as part of this consultation exercise.

4.71 Officers are of the view that the host LPA's are capable of protecting those areas designated as National Parks through their strategic planning and development management functions and there is not a need NPA's to have responsibility for planning in its area.

Strategic Development Plans

4.72 A number of independent reports have made a convincing case for the introduction of a tier of strategic plan making in Wales. The National Assembly Environment and Sustainability Committee's Inquiry into Planning in Wales (January 2011) and the Simpson review both recognise the need to strengthen collaborative working. Roger Tym & Partners review 'Planning for Sustainable Economic Renewal' (2011) recommends the introduction of a higher tier of planning above the LDPs whilst the City Regions and Independent Advisory Group reports concluded that a formalised structure for strategic planning is required. As a general principle officers are of the view that there is a need for the introduction of a formalised structure for strategic planning in South East Wales, therefore this proposal is to be welcomed.

4.73 WG consider that the strategic elements of LDPs, such as housing, employment, transport, gypsy and traveller provision, minerals and waste, should be elevated for discussion and conclusion in an SDP. This it is argued will result in a consistent, effective and efficient approach, reflecting strategic priorities, with key decisions taken once rather than numerous times. WG also considers that SDP's should only be prepared in areas where there are matters of greater than local significance and therefore identify the focus for three SDP's as follows: Cardiff; Swansea; and the A55 Corridor.

4.74 Although WG propose to set the geographical focus for SDP's, they do not specify the precise physical extent of the area to be covered by the SDP. It is suggested that a nominated lead local authority will be required to work collaboratively with other local authorities within the area of focus to identify the boundary of the plan area based on robust evidence which must be submitted for approval by Welsh Ministers.

- 4.75 Officers are of the view that this approach is sensible, however in identifying the focus for the three SDP's in Wales, it would be more helpful if the report were to refer to the Cardiff Capital City Region, the Swansea Bay City Region and the A55. This would clearly illustrate the importance of aligning the strategic planning framework with work already well advanced in respect of the City Regions.
- 4.76 Within a Caerphilly context it is assumed that the SDP area would be SE Wales and would cover the Cardiff Capital City Region. This would reflect the collaborative work that has already been undertaken to date, by the 10 LPA's in the region through the SE Wales Regional Board, South East Wales Directors of Environment and Regeneration Group (SEWDERG) and South East Wales Strategic Planning Group (SEWSPG). A formal discussion and thereafter decision will need to be taken by the Council and its neighbouring Local Planning Authorities in order to enable the SDP for the area to be prepared at a future date.
- 4.77 Alternative governance arrangements for such an approach are presented in the paper, however the WG have identified a preferred option that gives the responsibility for preparing an SDP with representatives from LPA's nominated to a 'Panel' which has the relevant statutory development plan making powers, including responsibility for approval of the Plan. Such powers will provide the 'Panel' with decision making capability, avoiding the need to refer back to parent authorities. This is considered by WG to be important to avoid delay and frustration of the process and instil responsibility and accountability. As a general approach this would seem sensible and is in conformity with the way in which the Scottish Regional Model works.
- 4.78 It is suggested that the 'Panel' will comprise locally elected members from the LPA's within the geographical area, with representation reflecting population. The precise number of members on the 'Panel' will be for Welsh Ministers to determine following designation of the boundary. Funding and resource arrangements to support operational activities will be for the 'Panel' to determine. The 'Panel' will be a corporate body. WG also envisage that economic, social and environmental partners are part of the 'Panel'; comprising around one third of the total membership, with all members having equal voting rights. Notably there is no suggestion that there will be additional resources for this work, rather it is assumed that existing resources will be targeted more efficiently.
- 4.79 Other governance options include strengthening the current voluntary approach through providing a statutory framework for LPA's to jointly produce an SDP, which requires agreement by all constituent authorities. This approach is similar to current collaborative working arrangements for LDPs and the risk of frustration to the process is significant. Alternatively, a completely separate body with plan making and decision-making powers could be established. WG considers that this option could be seen as being too distant from local communities and could result in conflict with lower tier development plans.
- 4.80 It is proposed that the SDP will be the subject of an independent examination in public, in the same way as the LDP currently is. The decision on whether the SDP can be adopted will be for the appointed Inspector to determine. The 'Panel' must approve the SDP in accordance with the Inspector's binding recommendations. Officers support this approach.
- 4.81 LDPs will be required to be in conformity with the relevant SDP. Where an SDP covers an LDP area, the LDP should be rationalised so that it only focuses on local matters, particularly site specific allocations, in accordance with the scale and location of growth set out in the SDP. Issues such as the overall level of housing, employment, retail provision and strategic sites will have already been addressed in the SDP and do not need to be repeated. This will result in a much slimmer LDP in both scope and content and should reduce the cost and time associated with plan preparation and review.

Q25. Do you agree that strategic development plans should only be prepared in certain areas?

4.82 Yes, however these areas should be aligned with work being undertaken in respect of the City Regions.

Q26. Do you agree that the scope of SDP's should be limited to the key issues identified in paragraph 5.29?

4.83 WG propose that the NDF will specify key issues that SDP's will have to cover as follows:-

- Housing provision on LPA basis, thus avoiding discussion at LDP stage;
- Employment land on LPA basis to provide a coherent approach;
- Strategic allocations (i.e. housing/employment);
- Gypsy and traveller provision (number of pitches, both permanent and transit) on LPA basis;
- Identification of cross LPA boundary infrastructure and links to the Wales Infrastructure Investment Plan;
- Assessment, charging and collection of a CIL on a consistent basis;
- Waste facilities and mineral requirements including safeguarding;
- Identification of strategic environmental opportunities including Green Belt, if appropriate; and
- Single Annual Monitoring Schedule.

4.84 Officers agree that these are the strategic issues that need to be covered in the SDP's. It is assumed that transport infrastructure is included in 5th bullet point.

4.85 Officers are of the view that the Local Planning Authority should continue to be the CIL Charging Authority for their area and this should not be a function of the SDP. Provision should be made however for a proportion of the CIL monies raised to be set aside to contribute toward the provision of regional infrastructure schemes.

4.86 In any event, clarification should be sought in terms of the 6th point as to what the WG means when it refers to the charging and collection of a CIL on a "consistent basis". Clearly there is a need for different rates to be charged in different market areas to reflect issues of viability.

Q27. Do you agree that a partnership between local planning authorities and social, economic and environmental stakeholders should oversee preparation of SDP's?

4.87 Engagement with stakeholders is a fundamental part of development plan preparation and SDP's should be no different. It is essential that local communities, businesses and all interested parties are able to actively contribute and influence the plan. However for SDP's the WG proposes that economic, social and environmental partners will form part of the SDP 'Panel'; comprising around one third of the total membership, with all members having equal voting rights. The question of democratic accountability of such members needs to be considered. Unlike elected representatives such partners would not have a mandate from the public to take decisions on their behalf. Further, the issue of self-interest could be raised if individuals could gain a pecuniary advantage through their involvement on the Panel.

Q28. Do you agree that a light touch LDP focussing on matters of local significance should be prepared in areas where there is a SDP?

4.88 Yes.

Theme 4: Improving Local Delivery

4.89 WG considers that planning services are best provided at the level of government closest to the benefits and impacts, which should create the most effective conditions for delivery. The current system gives Local Planning Authorities (LPA's) responsibility for delivery of local planning services. Local communities and their elected representatives remain best placed to

make local decisions, with consistency assured by reference to the Local Development Plan (LDP) and national planning policy.

Elements of a good local planning service

- 4.90 WG considers that significant improvements to both the delivery of LDPs and operation of the development management (DM) service are necessary to increase efficiency and provide consistency across Wales. A series of changes have therefore been identified by WG that will make local delivery more efficient or consistent. They also propose to measure local performance more rigorously, but note that improving performance is challenging at a time when resources are decreasing.
- 4.91 Therefore in order to improve local delivery WG intend to:-
- Introduce a common performance framework that sets out what a good local planning service should deliver, with each LPA being required to produce an annual report on service delivery;
 - Make changes to the LDP system to improve efficiency and local delivery; and
 - Make further improvements to the Development Management system to improve efficiency and local delivery.
- 4.92 It is intended that the performance framework will focus on both quantitative and qualitative measures, recognising that qualitative measures are generally harder to measure. WG have identified the essential elements of a good local planning service (refer to Annex A) and identify key indicators to cover the following areas:-
- Plan making;
 - Decision taking;
 - Efficiency;
 - Quality;
 - Engagement; and
 - Enforcement.
- 4.93 In future the LPA will be obliged to produce an Annual Performance Report (APR) to nationally agreed standards. The WG will compile this information to create an overview for Wales. The APR will allow individual planning authorities to consider weak performance areas and initiate self-improvement. In cases of persistent poor performance, it is proposed that penalties may be imposed by WG. These could include direct intervention and taking control of certain aspects of the local planning service, including the submission of planning applications direct to Welsh Ministers.
- 4.94 The proposed indicators of a good planning service are as follows:-

Plan Making

Proposed indicators:-

- Is there a current Development Plan in place that is within the plan period?
- Has the LDP been prepared within 18 months of the date specified in the original Delivery Agreement?
- Have Annual Monitoring Reports been produced following LDP adoption?
- Does the local planning authority have an up-to-date Single Integrated Plan (Community Strategy)/National Park Management Plan?
- Does the local planning authority have a housing land supply of at least 5 years?

Decision Taking Efficiency

Proposed indicators:

Is the percentage of:-

- applications determined under delegated powers above 90%?
- EIA applications determined within 16 weeks above 80%?
- applications for major development (non EIA applications) determined within 8 weeks above 80%?
- applications for local development (non EIA applications) determined within 8 weeks above 80%?
- applications for other consents (non EIA applications) determined within 8 weeks above 80%?
- planning applications submitted via the Planning Portal above 40%?

Quality

Proposed indicators:-

- Is the percentage of Member decisions against officer advice below 2% of all decisions made by the LPA?
- Are more than two thirds of appeals against refusal successfully defended?
- Have cost awards been avoided at appeal?
- Does the local planning authority have, and is it following, a current service improvement plan?

Engagement

Proposed indicators:-

- Does the local planning authority offer a pre-application service beyond the statutory minimum?
- Does the local planning authority have a planning officer on duty to provide advice to members of the public?
- Does the local planning authority's web site have a data base of planning applications, which members of the public can access, track their progress and view their content?
- Does the local planning authority hold a formal customer focus group to invite feedback from applicants and stakeholders?
- Does the LPA undertake notification above the statutory requirements?

Enforcement

Proposed indicators:

- Is the percentage of enforcement cases investigated (determined whether a breach of planning control has occurred and, if so, resolved whether or not enforcement action is expedient) within 84 days above 80%?
- Is enforcement action taken or a retrospective application received in 80% of cases within 180 days from the start of the case (in those cases where it was expedient to enforce)?
- Has the authority met its performance targets set out in its enforcement policy?

4.95 Annual monitoring reports are proposed and as a last resort, penalties may be imposed on persistently poor authorities, which could include direct intervention and taking control of the local planning service including the submission of planning applications direct to Welsh Ministers

Q29. Do you agree with the essential elements of a good planning service identified in Annex A

4.96 Many of the proposed standards are unrealistic, particularly in the short term, and would not necessarily lead to an improvement in the service.

4.97 The need to single out the requirement for a five-year land supply of housing in terms of Plan Making in particular is questioned. If a Local Planning Authority has an adopted Local

Development Plan which identifies realistic, deliverable sites for all type of land use that have been identified through an exhaustive plan making process (including independent examination), it does not then follow that the authority is failing if it has a perceived lack of land for housing development using the residual method prescribed in TAN 1. It is more likely the case that there have been low completion /development rates in the area and this is more likely to be caused by factors beyond the control of the local planning authority, for example through the economic downturn or by the development industry choosing not to develop in less buoyant market areas. This is illustrated by the fact that the 2012 Joint Housing Land Availability Study indicated that 16 LPA's did not have a five-year land supply.

- 4.98 The blanket requirement to determine 80% of applications within 8 weeks (16 weeks for EIA applications) is unrealistic, whilst the number of applications submitted electronically through the Planning Portal is largely outside the LPA's control. Setting a threshold of 2% for decisions contrary to officer recommendation is also unrealistic and appears to ignore the right of members to disagree with officers and come to a different decision on the basis of the evidence before them. The narrative behind any such statistics should be taken into account; for instance, if members refuse planning permission contrary to officer recommendation and at appeal no costs are awarded, then that is an indication that they took a reasonably based decision, whether it happened in 2% of cases or more.
- 4.99 It would be unreasonable to expect LPA's at a time of resource depletion to provide more than the statutory minimum pre-application service. Similarly, notification beyond the statutory requirements will incur greater costs, inconsistency between LPA's, and lead to complaints to the public services ombudsman.
- 4.100 Whilst the objective of improving service and performance is supported, it must be done in a realistic and phased manner. Penalties such as decision making by Welsh Ministers will not provide decisions any quicker than if they were taken by an LPA. Furthermore, due to the remoteness of The Inspectorate, there will be a perceived reduction in transparency and accountability, which will lead to less effective engagement with stakeholders, particularly the public. Should these changes be introduced then to confirm with targets, changes will have to be made to the Council's constitution as our current site visit and challenge procedures place us at risk of being deemed a failing authority by causing delays in the decision-making process.

Q30. Do you agree that each LPA should produce and publish an annual performance report to agreed standards?

- 4.101 Yes, provided those standards are realistic.

Direct Planning Applications to Welsh Ministers

- 4.102 It is intended that Welsh Ministers will have the power to take direct action when there are clear and persistent failures in LPA performance. Applicants will be given the option of applying to Welsh Ministers.

Q31. Do you agree that where a LPA is designated as poorly performing there should be an option to submit planning applications for major development to Welsh Ministers

- 4.103 No. LPA's are best situated to deal with planning applications in that they are close to the communities that they serve and have a clear democratic mandate. It is doubtful whether Welsh Ministers could provide a more efficient service than LPA's, but by its very nature it will be more remote, less transparent, and more difficult for stakeholders to engage with, particularly the public. Performance and service need to be monitored and improved, but a co-operative and supportive relationship between Welsh Ministers and LPA's would achieve those objectives far more effectively than a punitive one.

Improving the Local Development Plan process

- 4.104 Both the Independent Advisory Group report and LDP Process Refinement Exercise have separately concluded that there is nothing fundamentally wrong with the current LDP system. The WG therefore intend to move from the establishment of the LDP system towards maintenance of the system. The focus will be on ensuring that there is full coverage of plans at the earliest possible opportunity and that where there is plan coverage, that it is kept up to date. As is the case in Caerphilly, this means, moving forward with the efficient review and where necessary modification of plans. To this end national guidance will be refocused to facilitate swift and effective review and this is to be welcomed.

Implementation of the results of the LDP Refinement Exercise

- 4.105 The LDP Refinement Process has highlighted key parts of the existing process that could usefully be improved.
- 4.106 Enhanced front-loading, especially with regard to making the Preferred Strategy stage (Regulation 15) a more meaningful stage for consultation and with earlier site consideration to enable the alternative sites stage (Regulations 20 and 21) to be removed. This is to be welcomed. In particular the alternative sites stage is extremely confusing for stakeholders and should be removed.
- 4.107 For plan review, it is proposed to reduce the required stages as appropriate, to enable the rolling forward of the plan period. This would allow the existing strategy to be re-confirmed, and additional sites than conform to the strategy to be brought forward, this avoiding the Preferred Strategy (Reg15) stage. (Dependent on SEA procedural requirements). This is to be welcomed, but will only be appropriate where the adopted strategy remains appropriate over the revised plan period.
- 4.108 Soundness tests are to be repackaged for clarity and simplicity with a reduced number of tests. This is to be welcomed as the current tests are overly complicated and difficult.

Welsh Ministers to have the power to direct two or more LPA to prepare a joint LDP

- 4.109 It is proposed that in future Welsh Ministers may direct two or more LPA's to produce a Joint LDP. This decision would be based on evidence of the issues that need to be addressed and could include the need for housing supply to be planned for across the entire local housing market area, employment requirements within the travel to work area, or retail provision.
- 4.110 Elsewhere in the paper, WG consider that the strategic elements of LDPs, such as housing, employment, transport, gypsy and traveller provision, minerals and waste, should be elevated for discussion and conclusion in a SDP. This it is argued will result in a consistent, effective and efficient approach, reflecting strategic priorities, with key decisions taken once rather than numerous times. Officers agree that this is a sensible approach. Clarity is therefore sought as to whether a direction for two or more authorities to prepare a Joint LDP would only apply in those areas that will not be covered by a SDP.
- 4.111 It is noted that where a direction to produce a joint LDP is issued, it is proposed that the constituent LPA's must immediately cease work on their existing LDP and move as quickly as possible to produce a Joint LDP. It is assumed that where a LPA is well advanced with plan preparation that a direction is unlikely to be issued. However if this is not the case the WG needs to give due consideration to the potential waste of resources that will occur if such a direction were to be issued where a plan has progressed to Deposit Stage and beyond.

Prior notification to Welsh Ministers before a LDP can be withdrawn

- 4.112 In future, WG propose that if a LPA resolves to withdraw their LDP, before doing so they must notify the Welsh Ministers. It is proposed that the Welsh Ministers would then have 6 weeks to decide whether to direct that the LDP must be submitted to the Welsh Ministers for

approval (section 65 of the Planning and Compulsory Purchase Act 2004) or call-in the LDP for examination (section 71 of the 2004 Act). If Welsh Ministers do not exercise these powers within the 6-week period then the LDP can be withdrawn. This seems a sensible approach and is supported.

Introduction of an end date for LDPs beyond which they cease to be part of the development plan

- 4.113 WG propose that LDP's should have a specific duration beyond which they cease to be the extant development plan. In practice, if plans are reviewed and updated regularly there is no need for an end date. This proposal is extremely sensible given that there is no sense in referring to a plan that is significantly out of date.
- 4.114 Where necessary WG propose to use existing powers to direct that a review should take place where appropriate. Expired development plans will no longer be the first point of reference when making decisions on planning applications, but the evidence may continue to be a material planning consideration, depending upon its robustness. To ensure there is clarity that a plan is the adopted development plan, it must clearly state the date of adoption and the plan period.

Additional opportunities for community engagement working with LPA's to prepare Place Plans

- 4.115 WG consider that Town and Community Councils are well placed to work with LPA's to produce locally relevant Supplementary Planning Guidance (SPG) or Place Plans. Any SPG or Place Plan would have to be in conformity with and adopted as SPG alongside the LDP. WG considers that SPG in the form of Place Plans produced by the community could fulfil a number of roles. It could specify the finer grain detail to be considered at detailed planning application stage, ensuring that development reflects local distinctiveness. It could also be used to identify priorities for investment in community infrastructure, ensuring that best use is made of any funds obtained through Community Infrastructure Levy (CIL) receipts.

Q34. Do you agree that LPA's should work with town and community council to produce place plans which can be adopted as supplementary planning guidance?

- 4.116 Whilst the intention to work with Community and Town Councils to produce place plans appears sensible, there is a significant resource required to make this happen. Many valleys communities would not have the necessary skills and resources to prepare such plans and there would be a heavy reliance on the LPA to support them in this work. There is also an issue in terms of the timing of the preparation of these documents. The LPA would not have the resources to support the work in respect of multiple pieces of SPG being prepared.
- 4.117 If place plans are to be prepared it is crucial that they be in conformity with the adopted LDP and adopted as SPG if they are to serve any useful purpose.

Improving the Development Management Service

Delivering the plan

- 4.118 Welsh Ministers wish to redefine development control as development management (DM), the meaning of which is:-

“a positive and proactive approach to shaping, considering, determining and delivering development proposals. It is led by the local planning authority, working collaboratively with those proposing developments and other stakeholders. It is undertaken in the spirit of partnership and inclusiveness, and supports the delivery of key priorities and outcomes”

- 4.119 A plan led approach is proposed with a simplified DM process, so that where development is acceptable in principle on the basis of the LDP, subsequent discussions should focus solely

on design matters, and the principle of development would not be revisited.

Q35. Do you agree that where a development proposal accords with an allocation in an adopted development plan a new planning application process should be introduced, to ensure that only matters of detail such as design and layout are considered?

4.120 The principle of such an approach is supported, but it is questioned whether there is a need for a new process. It could be embodied in legislation or in national policy that the principle of a scheme should not be revisited if it is on a site allocated for that form of development.

Before an application is submitted

4.121 Developers are advised to enter into pre-application discussions with LPA's who will have a legal duty to provide such a service. Each LPA will have to produce a pre-application advice service statement based on legislation and guidance produced by Welsh Ministers. Costs can be recovered by charging, and at present two options are being considered:-

- No charge for initial advice, but a fee levied in addition to the normal application fee once an application is made, or
- A charge levied for all pre-application advice.

When the planning application is submitted

4.122 A significant amount of information is required in support of a planning application, and in recent years the introduction of the 1APP system whereby all LPA's use the same application form, and have the same requirements for supporting information, has streamlined the system. To resolve disputes about the level of information required it is proposed to introduce a validation appeal procedure administered by The Planning Inspectorate.

Q36. Do you support the proposal to allow a right of appeal against an LPA not registering a planning application?

4.123 Yes. This will ensure consistency across Wales for developers and their agents, but will also help LPA's establish what are reasonable requirements. The question of costs, and potential compensation due to delays, need to be addressed if it considered that an LPA has acted unreasonably.

Removal of mandatory design and access statements

4.124 Design and access statements (DAS's) have to be submitted with most planning applications apart from ones for householder development. It is now intended to remove that requirement because there is little evidence that they have been effective in achieving good design and access for all.

Q37. Should the requirement for mandatory design and access statements be removed?

4.125 Yes. A policy commitment by Welsh Ministers and LPA's to the securing good design and access for all should be sufficient in ensuring that the design professionals in the public and private sectors take proper account of those objectives in their work.

Publicity

4.126 Publicity is important in ensuring that the public have the opportunity to comment on proposals, but it is costly and resources are limited. Consideration will be given to new methods of engagement, and the removal of the need to publish details in local newspapers, but it is recognised that advertisement on the LPA's websites may not be a wholly satisfactory alternative.

Q38 Should the requirement to advertise planning applications for certain developments in a local newspaper be removed?

4.127 Yes. The use of computers, laptops and tablets is becoming more prevalent and the likelihood that a member of the public will spot a notice about a planning application on an LPA's website is probably as great as it is that they will spot one in a local newspaper.

Statutory Consultees

4.128 There is some evidence that statutory consultees, which must be consulted about certain planning applications, do not provide their comments promptly, and do not engage early enough in the planning process. It is intended to clarify the areas where statutory consultees must contribute to the DM process and then:

4.129 Introduce a duty on statutory consultees to provide a substantive response to consultation requests within a set period, as prescribed in subordinate legislation. The consultation request will be either from the developer at the pre-application stage (for DNS and major development), or from the LPA for all other types of development following its submission to them, including the discharge of planning conditions;-

- Place a duty on statutory consultees to provide performance reports to the Welsh Ministers; and
- When a response is provided at pre-application stage, limitations will be placed on the type of new issues that statutory consultees will be able to raise through formal consultation.

Making the decision

4.130 Members have democratic accountability for the planning service in their areas and so it is right for them to make decisions on the most difficult and controversial cases in a consistent and efficient way. However, evidence has demonstrated a lack of consistency at this vital stage in the DM process. The IAG identified a number of areas for potential improvement to address consistency of decision making by members, including being unduly influenced by local objections rather than sound material planning considerations.

4.131 Based on research carried out on behalf of the Royal Town Planning Institute it is proposed to implement the following changes:-

- Establishment of a national planning committee protocol that should be incorporated into each authority's constitution (the protocol would set out procedures to be used at planning committee meetings);
- Legislation to define the size of planning committee; and
- Establishment of a national programme of member training linked to the proposed planning competency framework for elected members.
- Introduce a national scheme of delegation for officers to determine planning applications; and
- Prescribe the size, make-up and procedures within which Local Planning Authority Committees should operate.

The aim would be that some 90% of applications would be determined under delegated powers, and planning committees would be limited to between 11 and 21 members.

Q39. Should there be any local variation within a national scheme of delegation for decision-making on applications?

4.132 No. There are no special circumstances that would distinguish one LPA from another in that respect.

4.133 Once a planning permission is granted there are often conditions that need to be complied with, and often a scheme will be altered for various reasons. To provide flexibility it is intended to introduce new procedures for considering minor amendments and renewal of

planning permission. It is also intended to make changes to decision notices, require developers to tell LPA's when a development starts, and require that a copy of the decision notice be displayed on or near the site.

4.134 It is intended to make a decision notice a 'live document' that identifies the plans and documents associated with the planning permission and records details agreed by future applications to discharge conditions and reserved matters associated with the permission. That should provide greater clarity, transparency and certainty to all stakeholders, including local communities.

Q40. Do you agree that a minor material change should be restricted to "one whose scale and nature results in a development which is not substantially different from that which has been approved"?

4.135 Yes. There are many factors that influence the design of a scheme ranging from the preference of the developer, which may evolve as a scheme is being built, to the need to overcome a technical problem. The planning system should be able to respond to such changes in a quick and flexible manner, and it should be part of the skill of the planning officer to identify where changes are not material.

4.136 A dedicated application procedure for the renewal of planning permissions will be introduced with its own submission requirements and fees.

4.137 At present the village green procedure can be invoked after planning permission has been granted, introducing delay and uncertainty into the system. It is proposed to:-

- Prohibit applications being made to register land as a town and village green where that 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 application for planning permission before the LPA; and
- Enable landowners to submit declarations to the commons registration authority. Declarations would include a form and map and have the effect of rendering all use of the land indicated inconsistent with the 'as of right' criterion required of town and village green registration.

Q41. Do you agree that the proposals strike a balance between the need to preserve land used as Town and Village Greens and providing greater certainty for developers?

4.138 Yes. The recreational use of land can be assessed through the planning system, and if land were genuinely used as a village green, the public would still be free to seek registration of those areas in advance of them being considered through the planning process.

4.139 The following measures will be introduced in respect of enforcement:-

- Introduction of temporary stop notices: a means of securing prompt, effective action, allowing LPA's to put an immediate halt to breaches of planning control for up to 28 days, with no right of appeal.
- Changing the title of S.94 'Completion Notices' to 'Termination Notices' to provide greater clarity and to reflect their role in the system.
- Providing LPA's with the power to require the submission of retrospective planning applications where unauthorised development can be regularised and controlled by planning conditions;
- Providing LPA's with the power to decline to determine retrospective planning applications for development that is subject to an enforcement notice - this will force the developer to appeal ground (a) (that planning permission should be granted) if they want to secure planning permission for the unauthorised development;
- Removing the ability to appeal ground (a) where a refusal of planning permission has already been upheld at appeal;
- Removing the ability to appeal against the refusal of retrospective planning permission

where a ground (a) appeal has failed; and,

- Transferring responsibility for determining section 215 appeals (unsightly land notices) from the Magistrates to Welsh Ministers.

Q42. Do you agree that the proposals will reduce delay in the planning enforcement system?

Q43. Do you agree with the introduction of temporary stop notices to the planning enforcement system in Wales?

4.140 The changes are broadly welcomed, and the removal of the certain rights of appeal should reduce delay, but only the operation of the changes will reveal whether that will be the case. Temporary stop notices are welcomed, but they will only be effective if LPA's are free of the threat of compensation, and if contravention would be subject to significant fines.

Financial implications of the reform package

4.141 Overall WG considers that this comprehensive set of reforms should not give rise to additional costs to the Welsh planning service. They anticipate some limited redistribution of costs between Welsh Government, local planning authorities (LPAs) and developers, particularly in relation to DNS planning applications, pre-application advice and pre-application engagement. A Regulatory Impact Assessment (RIA) setting out benefits and costs will accompany the Planning (Wales) Bill when it is introduced to the National Assembly.

5. EQUALITIES IMPLICATIONS

5.1 An Eqla is not needed because the issues covered in the report do not address changes to council service provision or its policies and strategies.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications associated with this response. However when enacted, the legislation could result in changes to the Planning Service which may have financial implications for the Council.

7. PERSONNEL IMPLICATIONS

7.1 There are no personnel implications associated with this response. However when enacted, the legislation could result in changes to the Planning Service which may have implications for personnel employed by the Council.

8. CONSULTATIONS

8.1 All comments have been incorporated into the report. There are no outstanding issues

9. RECOMMENDATIONS

9.1 That the officer response in respect of the questions raised by WG through this consultation be considered by Members; and

9.2 That the comments be forwarded to the WG as the formal comments of Caerphilly County Borough Council.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 In order to inform Members of the WG proposals for reform of the planning service in Wales as a consequence of this consultation exercise and their implications for CCBC; and
- 10.2 In order to provide comments to WG in respect of the consultation document: Positive Planning-Proposals to reform the planning system in Wales.

11. STATUTORY POWER

- 11.1 The provisions of the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 (as amended).

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Background Papers:
Positive Planning-Proposals to Reform the Planning System in Wales
Draft Planning Bill

Appendices:
Appendix 1 Annex A to Consultation Paper
Appendix 2 Presentation to Regeneration and Environment Scrutiny Committee - 18th February 2014