



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Amgylchedd a Chynaliadwyedd **The Environment and Sustainability Committee**

Dydd Iau, 11 Rhagfyr 2014
Thursday, 11 December 2014

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Cynnig o dan Reol Sefydlog 17.42 i benderfynu Gwahardd y Cyhoedd o Weddill y Cyfarfod
Motion under Standing Order 17.42 to resolve to Exclude the Public from the Remainder of
the Meeting

Cofnodir y trafodion yn yr iaith y llefarwyd hwy ynnddi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

The proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Mick Antoniw	Llafur Labour
Jeff Cuthbert	Llafur Labour
Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Llyr Gruffydd	Plaid Cymru The Party of Wales
Alun Ffred Jones	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Julie Morgan	Llafur Labour
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Nick Ramsay	Ceidwadwyr Cymreig (yn dirprwyo ar ran Antoinette Sandbach) Welsh Conservatives (substitute for Antoinette Sandbach)
Jenny Rathbone	Llafur Labour

Eraill yn bresennol
Others in attendance

Lindsey Curtis	Rheolwr Ardal De-Orllewin Cymru, Sustrans Area Manager South West Wales, Sustrans
Meirion Davies	Mentrau Iaith Cymru, yn cynrychioli Dyfodol i'r Iaith Mentrau Iaith Cymru, representing Dyfodol i'r Iaith
Tamsin Davies	Cadeirydd Grŵp Cymunedau Cynaliadwy, Cymdeithas yr Iaith Gymraeg Chair, Sustainable Communities Group, Cymdeithas yr Iaith Gymraeg
Ben Francis	Aelod, Ffederasiwn y Busnesau Bach Cymru Member, Federation of Small Businesses Wales
Huw Gapper	Uwch-swyddog Polisi ac Ymchwil, Comisiynydd y Gymraeg Senior Policy and Research Officer, Welsh Language Commissioner
Mark Harris	Cynghorydd Polisi a Chynllunio Cymru, Ffederasiwn yr Adeiladwyr Cartrefi Planning and Policy Adviser Wales, Home Builders Federation
Matt Hemsley	Cynghorydd Polisi a Chyfyngau, Sustrans Policy and Media Adviser, Sustrans
Nicola Hodgson	Swyddog Achosion, Y Gymdeithas Mannau Agored Case Officer, Open Spaces Society
Emyr Lewis	Dyfodol i'r Iaith

Naomi Luhde-Thompson	Cynghorydd Cynllunio, Cyfeillion y Ddaear Planning Adviser, Friends of the Earth
Josh Miles	Cynghorydd Polisi, Ffederasiwn y Busnesau Bach Cymru Policy Adviser, Federation of Small Businesses Wales
David Morgan	Rheolwr Polisi, RICS Cymru Policy Manager, RICS Wales
Colin Nosworthy	Swyddog Cyfathrebu a Chyswllt y Cynulliad, Cymdeithas yr Iaith Gymraeg Communications and Assembly Liaison Officer, Cymdeithas yr Iaith Gymraeg
Beverley Penney	Y Gymdeithas Mannau Agored Open Spaces Society
John Pockett	Cyfarwyddwr, Cydffederasiwn Cludiant Teithwyr Cymru Director, Confederation of Passenger Transport Wales
Dyfan Sion	Cyfarwyddwr Polisi ac Ymchwil, Comisiynydd y Gymraeg Director of Policy and Research, Welsh Language Commissioner
Elwyn Thomas	Prif Weithredwr, Cymorth Cynllunio Cymru Chief Executive, Planning Aid Wales
Matthew Williams	Swyddog Polisi ac Ymchwil, RenewableUK Policy and Research Officer, RenewableUK

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Alun Davidson	Clerc Clerk
Peter Hill	Rheolwr Craffu Scrutiny Manager
Lisa Salkeld	Cynghorydd Cyfreithiol Legal Adviser
Graham Winter	Y Gwasanaeth Ymchwil Research Service

Dechreuodd y cyfarfod am 09:27.
The meeting began at 09:27.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

[1] **Alun Ffred Jones:** [*Anhyglyw.*] Os bydd y larwm tân yn canu, gofynnaf i chi ddilyn y tywyswyr allan. A wnaiff pawb ddiffodd eu ffôn symudol? Rydym ni'n gweithredu'n ddwyieithog, fel y gwyddoch chi, ac felly defnyddiwch y Gymraeg neu'r Saesneg. A oes unrhyw fuddiant i'w ddatgan o dan Reol Sefydlog 2.6? Gwelaf nad oes. Mae ymddiheuriadau gan Joyce Watson ac nid oes dirprwyo. Dyna ni—sori, mae Nick Ramsay yma yn lle Antoinette Sandbach. Croeso i Nick. Mae'n ddrwg gennyf.

Alun Ffred Jones: [*Inaudible.*] Should there be a fire alarm, please follow the instructions of the ushers. Please switch off your mobile phones. We operate bilingually, as you know, and so you are welcome to use Welsh or English. Are there any declarations of interest under Standing Order 2.6? I see that there are none. There are apologies from Joyce Watson and there are no substitutes. Okay—I do apologise, Nick Ramsay is substituting on behalf of Antoinette Sandbach. A warm welcome to you, Nick. I do apologise.

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 9
Planning (Wales) Bill: Stage 1—Evidence Session 9

[2] **Alun Ffred Jones:** Iawn, mae'r **Alun Ffred Jones:** Our witnesses have tystion wedi cyrraedd. Croeso mawr iddyn joined us. A very warm welcome to them. nhw. Maent yn cynrychioli'r sector busnes a They are here representing the business datblygwyr. sector and developers.

[3] A very warm welcome to all of you. Before I ask you to introduce yourselves, may I say that there are, as you realise, six of you? Obviously, not all of you will need or want to answer every question, so if you can indicate if you want to say something by any means—reasonable means—I will come to you, but do not feel the need to answer every question; otherwise, we will not get through all the work, and there is a lot of work to get through this morning.

[4] Felly, a gaf i ofyn i chi gyflwyno Therefore, may I ask you to introduce eich hunain? Fe ddechreuaf ar fy ne. yourselves? I will start on my right.

[5] **Mr Williams:** I am Matthew Williams. I am policy officer for RenewableUK Cymru. RenewableUK is the trade association for onshore wind, wave and tidal technologies in England and Wales. In Wales, we also represent biomass, solar and anaerobic digestion technologies.

[6] **Mr Pockett:** Bore da a diolch, **Mr Pockett:** Good morning and thank you, Gadeirydd. John Pockett ydw i. Fi yw Chair. I am John Pockett. I am the director of cyfarwyddwr Cydffederasiwn Cludiant the Confederation of Passenger Transport Teithwyr Cymru, sef y corff sy'n Wales, the body that represents the bus and cynrychioli'r diwydiant bysys a choetsys. Fy coach industry. My interest is in how niddordeb i yw sut mae materion cynllunio planning issues will impact upon the yn effeithio ar ddarpariaeth cludiant provision of public transport, so I will be cyhoeddus, felly rwy'n hapus i helpu yn y happy to assist you in that regard. cyswllt hwnnw.

[7] **Mr Morgan:** Hello, I am David Morgan. I am the policy manager for the Royal Institution of Chartered Surveyors in Wales.

[8] **Mr Harris:** Good morning. I am Mark Harris, planning and policy adviser Wales for the Home Builders Federation, representing the house building industry.

[9] **Mr Francis:** Bore da. Good morning. My name is Ben Francis, and I am a solicitor at a property development and construction company based in Swansea called Highgrove Holdings. I am also the secretary of the Federation of Small Businesses' Swansea bay branch and a member of the FSB's south Wales regional committee.

09:30

[10] **Mr Miles:** I am Josh Miles, policy adviser at the Federation of Small Businesses Wales.

[11] **Alun Ffred Jones:** Croeso. Reit, fe **Alun Ffred Jones:** Welcome. We will start ddechreuwn ni gyda Nick Ramsay—*kick off*. with Nick Ramsay. Kick off.

[12] **Nick Ramsay:** Diolch, Chair.

[13] I think the Chair thinks that I bring a pair of fresh eyes to this legislation, so he has

opted for me to kick off today. What has attracted my eye is the overview, which states the aim of the Bill, and whether it will deliver a planning system that is positive in outlook and one that enables development, which must be the holy grail of a planning system in Wales. My question is, I think, specifically for the FSB—although other witnesses might have an input as well—as it is on your comment that the regulatory impact assessment has underestimated the impact that the Bill will have on SMEs. Could you expand a little bit on that, please?

[14] **Mr Miles:** We have done quite a lot of work around how to improve the approach to regulation in Wales, and one of the key things that we found is that RIAs quite often do not capture the impact on SMEs as well as they could. In this instance, there is quite an extensive RIA, so there is a lot of good work done in there and we would not want to disregard that, but one of the things that we do have concerns about is the use of the term ‘developers’ as a kind of catch-all for everyone making an application. If you look at some of the statistics for what our members use the planning system for, about 29% use it for change of use, some 20% use it for minor physical improvements, and that is all the way through to quite significant developments. I think that there is quite a range of developments and proposals that have been brought forward under the planning system, and I think that we would like to see that captured a little bit better in the RIA.

[15] **Nick Ramsay:** You have a concern in the evidence that you will likely be classed as developers rather than as small businesses.

[16] **Mr Miles:** Yes, I just think that it is quite a broad term. So, if you are trying to ascertain the impact of, for instance, introducing DNS—developments of national significance—on developers, obviously, that is going to vary according to the size of the developer and the proposals that are involved. So, if you are just applying for signage, for example, that is probably not going to have a great impact. By aggregating them in that way, perhaps we are missing some of the instances where it will actually apply, rather than the kind of aggregated impact.

[17] **Nick Ramsay:** Did the Home Builders Federation have any views on that classification?

[18] **Mr Harris:** I think that the comment that we made was that there is a phrase in the planning legislation that talked about ‘major developments’, and, currently, the threshold for that is 10 units or 1 ha, and we have suggested that, as a way of encouraging smaller scale development, some of the new legislation that uses that threshold would come in at quite a low level. So, we have suggested raising the threshold or having some steps within that threshold. We have suggested 30 units and 2 ha. The reason for that suggestion is that 30 units and above tends to be major house builder territory, whereas below 30 units tends to be the smaller SME house builders.

[19] **Mr Miles:** Apologies, but if I could come back on one point, in the planning Bill, one of the key features of this is that we are separating categories of development by size. So, we have developments of national significance, you have regionally important projects and then locally important projects. I just think that it is strange that we have a Bill in which that is the main focus, yet the impact assessment does not carry that kind of theme through. That is the main kind of point that we are trying to get that with that.

[20] **Nick Ramsay:** I have two more points, if I may, Chair.

[21] First of all, I think that the Home Builders Federation has said that you are concerned about the resource in terms of the pre-application community consultation. Do you think that the amount of resource needed has been underestimated for that?

[22] **Mr Harris:** We have a general concern about resources. I have to say that I can understand that the Bill is saying that, in the long term, those resources will be there because the system will be improved, but it is in the short-term impact of all the changes coming in and how people adjust to the changes that things may need to be resourced a bit more.

[23] **Nick Ramsay:** Okay, and now a question for—the Confederation of Passenger Transport representative, I think, will probably be the best person. In terms of the national transport plan, do you think that the Bill needs to be amended to make specific links with other statutory planning frameworks, such as the transport plan?

[24] **Mr Pockett:** Absolutely. I think that that was the point that I made in the short note that I did. I think that there is very little reference to public transport in the whole 300-odd pages that I waded through. One of the points is that we have the national transport plan, we have the spatial plan, and we have this, but they all seem to operate in isolation. It is essential that planning affects every aspect of life, and there needs to be some joined-up thinking between these various documents. I think that is an unqualified ‘yes’.

[25] **Mr Morgan:** May I just make a point on the pre-application process? Obviously, we think that this is very welcome, but it is vital that officials do not regard it as an opportunity, when it is concluded, to start considering the merits of an application all over again. It is obviously meant to be there to help smooth out the process. For that reason, we would like to see regular secondments of planning officials to authorities elsewhere in Wales, and maybe outside as well, so that they are constantly exposed to fresh thinking and fresh approaches. So, obviously, it is great that this process is there for the pre-application stage, but it must be there to help smooth out the process and not to start the whole clock all over again when it concludes.

[26] **Mr Francis:** May I add to that? As a developer, I would say that pre-application meetings help parties to find common ground far quicker, it should ultimately save cost and time and I would imagine that it should reduce officer workloads in the long run. So, it absolutely would be welcomed.

[27] **Nick Ramsay:** So, you support the idea of the pre-application process, but it needs to do what it says on the tin and not be an unwieldy process.

[28] **Russell George:** On this point, I noticed that RenewableUK had concerns that it was not clear where the statutory duties lie between where chargeable advice begins and ends. I wonder whether you would like to expand on that at this point.

[29] **Mr Williams:** Members of ours have raised concerns, and there are concerns that have emerged from elsewhere in the UK, that during the pre-application consultation and advice periods, statutory consultees can charge for some advice—in pilot projects elsewhere in the UK—but it is not sufficiently clear where that advice is charged for and where that advice is part of the pre-application procedure. That is a difficulty, and that can become a difficulty later in the process, where you have been advised by one statutory consultee in advice to do one thing, but the charged-for advice or the statutory advice that you then receive later down the line contradicts that. That needs to be clearer.

[30] **Alun Ffred Jones:** Could I have just a quick ‘yes’ or ‘no’ answer to this: is there a need for two additional tiers of development plan—the national development framework and the strategic development plans? What is the general view on that? Is it a good idea?

[31] **Mr Harris:** Yes.

- [32] **Alun Ffred Jones:** It is a good idea.
- [33] **Mr Harris:** Yes.
- [34] **Alun Ffred Jones:** Would you like to vote on it? [*Laughter.*] I take it that nobody opposes it, as such.
- [35] **Mr Williams:** No.
- [36] **Mr Miles:** I think that, for most of our members, the larger developments will not be relevant, but on the whole, yes, we are supportive of that.
- [37] **Mr Morgan:** As a general observation, a more strategic approach to planning is definitely warmly welcomed.
- [38] **Alun Ffred Jones:** Okay. Diolch yn fawr. Talking about the national development framework, I call on William Powell.
- [39] **William Powell:** Bore da, bawb. I would appreciate, first of all, a view from across the panel as to whether you have any concerns on the adequacy of the proposed scrutiny arrangements by the Assembly and, indeed, other bodies. Some concern has been expressed about the lack of an independent public examination of the content of that framework.
- [40] **Mr Harris:** May I come in on that? It is a very important point. Ultimately, if you look at the system that is proposed, the NDF will be the starting point and all other plans will come down from that. So, if the NDF is seen as not being correctly put in place, then it will automatically result in concerns about the other plans. Even at local development plan level at the moment, planning struggles to engage with the community and it is not until the planning application comes in and someone says, 'There is a house behind me' that they actually get involved and, by that point, it is too late because the land has already been allocated for housing. So, we need to think carefully and look at better methods of consulting and engaging with the public to make sure that there is more involvement at this key stage.
- [41] **William Powell:** Is that a view that is shared by others on the panel?
- [42] **Mr Miles:** Yes, I think so. We see scrutiny, in particular by the Assembly, as being very important in relation to this, so I would definitely agree with the point made there.
- [43] **Mr Morgan:** This Bill represents a major opportunity to enhance the attractiveness of Wales as a place for development and investment. As has been said, scrutiny by the Assembly is absolutely essential to get this right.
- [44] **William Powell:** That is reassuring. A couple of questions to the Home Builders Federation. Could you expand on your comments that the national development framework should contain a national housing target? Given your comments on resource earlier, could you expand on your view that it should be reviewed in a three-yearly cycle rather than five yearly, given the resource implications that that would imply?
- [45] **Mr Harris:** In terms of the first point about the national housing standard, we are seeing that housing is far more on the agenda for people; there is an acceptance that there is a shortage of housing in Wales and the UK. Let us start by saying, 'As a very general principle, this is the level of housing that we would like to achieve in Wales'. This will be the lead plan that others will come from, so if that figure is missing from the lead plan, when does it come in? It is a general figure at that stage, with the detail coming in at the lower plans.

[46] Yes, there is a balance between reviewing too regularly and the resource implications of that, but the arguable predecessor to the NDF was the Wales spatial plan, and we saw what happened to that.

[47] **William Powell:** It withered, effectively.

[48] **Mr Harris:** Yes, and that was because it was not being reviewed regularly. By reviewing more regularly, it makes it more flexible to adjust to changes and also keeps it on the agenda for everybody.

[49] **Mr Morgan:** We think that LDPs should be thoroughly reviewed every five years or so, because the situation can change dramatically, as we saw in 2008. Dare I say it, sometimes inertia can creep into the human psyche, so unless there is a requirement there that every five years you are going back to take a look to see whether it is still on point, people might just let it slide. So, we think that a thorough review of LDPs every five years would be very helpful.

[50] **Llyr Gruffydd:** On the housing targets, I would be interested to know whether you think that it would be appropriate for the national development framework to specify, within that figure, a level of affordable housing and the different kinds of housing that we might need.

[51] **Mr Harris:** I think that it is appropriate. We have already seen it done with affordable housing, through the pact that the affordable housing industry did with Welsh Government to say that it would deliver a certain number of houses within a certain time period. As long as it is understood that that is a target, and that the detail of where that housing goes and how it is provided comes in at a lower level, it gives you something to aim for.

[52] **Alun Ffred Jones:** Mick Antoniw, is your question on this?

[53] **Mick Antoniw:** How do you see the comments that you are making about targets and so on interacting with the Well-being of Future Generations (Wales) Bill, which is going to set a sort of framework for all of this? Do you see any potential area for conflict? How do you see these working together?

[54] **Mr Harris:** I cannot answer that specifically, but the general issue is that there are a number of other Bills happening at the same time, and the point was made earlier that, all too often, we see all these Bills independently. I have always said that an ideal scenario would be able to just set a date, stop all the current legislation and start afresh with all-new legislation; it would make life a lot easier.

[55] **Alun Ffred Jones:** Could we have that as a recommendation? [*Laughter.*]

[56] **Mr Harris:** Obviously, you have to take account of the long-term sustainability issues that are talked about in that particular Bill.

[57] **Alun Ffred Jones:** Russell, did you want to come in on this?

[58] **Russell George:** David Morgan mentioned reviewing LDPs perhaps every five years. On that particular point, do you think that there is going to be difficulty with all the abbreviations—the NDFs, the SDPs and everything else—all being reviewed or brought forward at different times? Should they be consistent? Should there be a timetable for every area so that they interlink effectively?

[59] **Alun Ffred Jones:** Who is answering?

[60] **Mr Morgan:** I am sorry; I thought that you were addressing it to Mark.

[61] **Russell George:** I suppose that it was for anyone, really, but I was picking up on your point because you particularly said that you think that an LDP should be reviewed every five years.

09:45

[62] **Mr Morgan:** Yes. Obviously, it would be great if there could be co-ordination between these various reviews, and how that should be done is something that should be looked at separately. However, I do think that having a requirement to constantly look again every so often at the plans for development is very healthy because, going back to the earlier point, the situation can change so fast, as we have seen. It might come to the conclusion that everything is fine and that the plan can go on, but I think that requiring people to have a thorough review is something that should be warmly welcomed. May I just pick up a point that Mark was making about this holistic approach? The point was being made about all these Bills and all these requirements that we must always be conscious of what is being asked of developers or builders in the round, as it were—so, not just the planning requirements on them, but what might be asked in terms of building regulations, contributions to the local community and so on. We need that sort of holistic approach of trying to keep in mind what is being asked throughout the whole system. It is all one linked body, if you like, in terms of what is being asked of developers. That is something we regard as being very important.

[63] **Russell George:** I think that you said that co-ordination would be good, but is it possible for there to be co-ordination between each of these?

[64] **Mr Morgan:** Well, you would hope that, if there could be a sort of set time frame for local authorities to review this, they could be speaking to their counterparts in Welsh Government and saying, 'We are planning to do x' and the Welsh Government could perhaps in turn say, 'We're planning to do it on this date, so if you can shift it, perhaps we could be more in sync. We could review first because we're setting out the overarching principles and, in turn, once we've had our review, you can follow on from that, and, by the way, would not it be a great idea if some of your local planning officials could join us as observers as we're reviewing it so they're buying into the process from the start so that there is not a case of having no buy-in at the local level?'

[65] **Alun Ffred Jones:** That is a novel idea. [*Laughter.*]

[66] **William Powell:** Staying with Mr Morgan, RICS commented that the NDF should be developed in two phases—first in consultation with the private sector and then full publication. I wonder whether you could expand a little on that and say why you think that is the desirable way to go.

[67] **Mr Morgan:** Well, I think that consultation with stakeholders who are obviously going to be the people who are going to deliver the homes at the end of the day to a great degree is something that should be warmly endorsed, as it were, as a good step. It may be, obviously, that not all of their views will necessarily be accepted. However, I think that, in terms of helping to develop it and generate a debate, this would be a healthy step, and I think it would generate a lot more buy-in from the private sector if people felt that they had been consulted at an early stage.

[68] **William Powell:** Do you think that there is a danger that that might go too far, excluding the wider democratic interest of other stakeholders, if that first phase was too extensive and things got too entrenched too early on?

[69] **Mr Morgan:** Not if there is proper oversight by Assembly Members of those who are perhaps helping to develop this—if they are being called in for questioning to be asked, ‘Who have you consulted?’ and ‘Have you also spoken to social stakeholders and so on?’ I think that, provided the Assembly is there to have a helping hand on the shoulders of those developing these things, that should be sufficient scrutiny.

[70] **William Powell:** I have a couple more points if I may, Chair. Can you comment on the extent to which you feel transport and energy infrastructure should be covered by the national development framework, which will obviously be of interest to your immediate neighbours on the panel?

[71] **Mr Morgan:** Certainly, I think that it would be good if they could take account of it, because there are obviously going to be significant demands in terms of climate change requirements moving forward in the coming years. So, the degree to which it does so is something to be debated, but, yes, I feel that it should take account of it. I would perhaps make a more general observation at the moment as well, which is that one of the things that we have been keen to encourage or speak about is consultation between the various administrations throughout the UK in terms of renewable energy and so on. At present, for instance, all energy projects above 50 MW are reserved to Westminster. That sort of consultation and, hopefully, dare I say it, co-ordination, would be something that we would very much hope could be achieved.

[72] **Alun Ffred Jones:** Are there any other comments on this? Mark.

[73] **Mr Harris:** I think that transport is critical to development, particularly at a time when we have electrification of rail and we have talk of the metro system. There is already a phrase being used: metro-proofing developments. Often, actually, one of the biggest objections to new developments, particularly larger-scale developments, is around transport. The difficulty, often, is that you cannot get the transport in at the beginning. You need a certain massive development before you can get the transport in, and that can often cause issues. So, yes; the link to transport is critical.

[74] **Alun Ffred Jones:** A wyt ti eisiau **Alun Ffred Jones:** Would you like to add ychwanegu unrhyw beth, John? anything, John?

[75] **Mr Pockett:** I will only repeat what I have said in the note, really, which was about the mistakes. I am sure that Members have developments of all sorts in all of their constituencies, where buses cannot get in. One idea that might be worth thinking about is this: in some developments, you have a problem with residents’ parking so—with my colleagues here, perhaps this would not be popular—is it possible to have some sort of requirement for off-road parking so that there is access for public transport to go up and down streets? I can think of lots of places in Pontypridd where it is very difficult for public transport to have access because of residents’ parking, and the developments have not allowed for off-street parking.

[76] **Alun Ffred Jones:** Would you like to comment on this?

[77] **Jenny Rathbone:** Yes. Could I just follow on from that? That feels like the tail wagging the dog. Surely, it should be that the public transport is our excellent standard, so there is less need for private cars.

[78] **Mr Pockett:** Indeed, but I think that we also have to accept that people will have cars. I think that, if the framework exists—

- [79] **Jenny Rathbone:** It is the number of cars.
- [80] **Alun Ffred Jones:** Sorry; we are inundated. Jenny, finish your point.
- [81] **Jenny Rathbone:** I just think that the interface between development and sustainability is pretty important. I am keen to hear what the house builders think about the standards that need to be required for house-building, which would also apply to decent transport links. If we put housing estates out in the middle of nowhere, where there is no public transport, it is hardly going to meet the future generations Bill.
- [82] **Alun Ffred Jones:** The point is well made. Let us stick to the Bill, as it stands, and try to—. Are your questions on this, Mick?
- [83] **Mick Antoniw:** No; I will talk about my caseload from the last week.
- [84] **Alun Ffred Jones:** Julie, did you want to come in on this?
- [85] **Julie Morgan:** It is just that some developments—. I was thinking of the student village in my constituency of Cardiff North, which has restrictions on the students there having cars. They say that they are not allowed to have cars, but you still have a problem with the interface with the surrounding streets. I just wondered whether you had any comments on that, John—where that sort of thing is put in an application, that they cannot be allowed to have cars.
- [86] **Mr Pockett:** I do not think that it is a matter for me to say that there should be some sort of regulation. I suppose that there is regulation. I think that, probably, college authorities have more control—if I can use that word—over their students than, perhaps, the general electorate would like authorities to have, be it the National Assembly or local authorities. I think that it is a little bit difficult, really.
- [87] **Alun Ffred Jones:** I will cut you off there.
- [88] **Julie Morgan:** There we are. Sorry, it is not absolutely relevant.
- [89] **Alun Ffred Jones:** We will move on. Have you finished?
- [90] **William Powell:** That concludes the point, Chair.
- [91] **Llyr Gruffydd:** I just want to ask a few questions around the strategic development plans, which are a key feature, obviously, of this legislation. Given that we are facing local government reorganisation in Wales and that there will be fewer local planning authorities—possibly six, according to some—would they not be more regional and strategic in their nature, thereby, perhaps, negating the need for a strategic development planning tier?
- [92] **Mr Morgan:** What I would possibly just say in comment on that is that it seems fairly likely that any changes on that score are some distance away in the future—possibly quite a long time away. So, in the interim, perhaps the strategic approach being advocated here would seem on point.
- [93] **Mr Williams:** I think that we would say that strategic development plans have the potential to address issues that will still be bigger than a single local authority, even in the event of six planning authorities. One that springs to mind is perhaps the district network operator. So, the grid at a lower level than the National Grid possibly needs to be planned at a more strategic level than even six local planning authorities might be able to do.

[94] **Llyr Gruffydd:** I am just wondering, really, at what point the national development framework would mop up some of those issues. You could even end up with—. There will be provision for joint local development planning as well. I am just grappling with that a little bit. I understand fully the need for regional planning, and there are very strong merits in doing that, although I will come on to some concerns in a minute, but I am just interested to know how you see all the pieces coming together really.

[95] **Mr Harris:** One of the points on that is to remember that strategic development plans do not have to follow local authority boundaries. So, a strategic development plan should be around where the development is needed and where the infrastructure is needed. In some ways, having fewer authorities is going to make that easier because you are going to have fewer arguments about, 'Well, a bit of our authority is not in it and why have you drawn the line there?' because there will be fewer lines on the maps to argue over.

[96] **Mr Miles:** I do not have my crystal ball today, so I could not tell you how many local authorities are going to be in the future, but I think that it is vital that we know exactly at what level we would expect certain types of development to be dealt with. So, I think that the Bill needs to set out quite clearly what will be part of the national framework, what will be regional and what will be in the realm of local authorities. Obviously, for us, local authorities are going to be the main area that our members will be dealing with, but I also think that, at the regional level, there needs to be proper accountability. We can see that the direction of travel here is around city regions, and that is a good thing, but, at the moment, city regions are not that transparent. We are not sure about how we get the small business view into that kind of body, and I think that there is a danger that if we have regional bodies without some kind of mechanism for proper accountability and scrutiny, some of those issues will get left out and lost. So, I think that does need to be looked at.

[97] **Llyr Gruffydd:** Before I get on to the democratic element of the strategic planning panels, you mentioned that the strategic development plans would be relevant in the two south Wales city regions and, possibly, the A55 corridor. So, where does that leave the areas in Wales that would not have a strategic development plan? If you feel that there are a lot of issues that need to be dealt with on that level, and within that sort of tier, then surely parts of Wales, which themselves have as many strategic issues that need to be addressed through the planning system, will be left out in the cold, if you do not feel that the national development framework is sufficient to pick up some of these issues.

[98] **Mr Miles:** I think that is why it needs to be very specific in terms of what we would expect to see regionally. You can argue that there is a case for larger-than-local-authority issues, and it does tie in with things like how we plan for transport and whether we have regional consortia around those sorts of things. So, yes, I take your point; there is a case for regional arrangements in some areas, but there is a danger that some issues will be left out.

[99] **Llyr Gruffydd:** The conclusion that I am coming to is that there is a degree of confusion about how these come together, and if there is a strategic development here and there is not one there, and you have the city regions as well, and everything else, it seems to be very disparate, when it should all be part of the same big idea, surely.

[100] **Mr Williams:** I think we have had some difficulty in assessing what the full impact of this Bill will be because it is not yet clear what will be in the national development framework, what will be in the strategic plans, and what will be left to local development plans. We have had indications that onshore wind above 25 MW will be in the national development framework, but that leaves aside all other energy infrastructure. So, what about all the other energy infrastructure that is 25-50 MW? Where does the grid fall? Where does National Grid fall? It would be easier for us, I think, to assess what the impacts of the Bill would be—

[101] **Jeff Cuthbert:** I am terribly sorry, but I do not think the microphone is on. I cannot hear what you are saying.

[102] **Mr Williams:** Sorry. It would be much easier for us to assess the impacts of the Bill and understand how these different levels of development fit together if the Government had given us some indication of what it viewed would fit within the strategic development plans within the national development framework, and it has not done that to a large extent yet.

[103] **Alun Ffred Jones:** Jeff, did you want to come in on this?

[104] **Jeff Cuthbert:** I wanted to link the issue in terms of the strategic planning panels and whether you think that there could be any scope for joint working or, indeed, contradiction with the public service boards, which will be there on a statutory basis under the Well-being of Future Generations (Wales) Bill. Is there likely to be any overlap? Is that something to which you have given any thought?

10:00

[105] **Mr Miles:** If I recall correctly, the public service boards will be on a local authority level, so there is a danger that you will have—

[106] **Jeff Cuthbert:** Yes, but there will be fewer of them, undoubtedly.

[107] **Mr Miles:** Yes, absolutely. I think that you want those organisations working together as much as possible, to be honest, otherwise you will get a disconnect. How you do that, I am not so sure, but it is definitely something that needs to be considered.

[108] **Alun Ffred Jones:** Llyr, a oeddet ti **Alun Ffred Jones:** Llyr, had you finished? wedi gorffen?

[109] **Llyr Gruffydd:** I just want to pick up on the democratic questions that are being raised around the strategic development panels. Clearly, I have concerns, and many others have expressed concerns, about a potential deficit in accountability of some of the people on those panels, because a third will be unelected and, quite possibly, some of your organisations will be members of those panels. I would be interested to hear your views about whether you think it is appropriate that non-elected representatives are full voting members of those panels, or whether you would maybe foresee a situation where we emulate the Scottish model, where you have co-opted members who do not have a vote around that table, so they are there in a sort of advisory capacity.

[110] **Alun Ffred Jones:** Are there any views?

[111] **Mr Miles:** I think the important thing is that there is a consultation process and that organisations such as ours are able to input into that. That is obviously important, but I am a little cautious about the appointment process, where you have a third that will be appointed by Welsh Ministers. That needs to be scrutinised properly—whether you have a third or not, there needs to be a process by which we know why those people are appointed. Once that group is established, there needs to be very direct links back either to the Assembly or to the constituent local authorities.

[112] **Mr Harris:** I think, arguably, the idea of bringing the key stakeholders and the development industry into the process earlier so that it ties in with the overall aim of the Bill—the front-loading in the planning system—is to speed up the planning system. So, by those people being involved earlier, hopefully, you will not end up with a plan that is

conceived by one set of people that has not taken full account of other ideas, and you end up with more debate when you try to implement the plan. So, that full stakeholder engagement as early as possible, hopefully, will mean that what this is all about—development coming out of it at the end of the day—will happen quicker.

[113] **Llyr Gruffydd:** Your evidence has suggested a single all-Wales panel, I think.

[114] **Mr Harris:** Yes, one of my suggestions is—and we keep talking about resources—that rather than trying to set up three of these, there could be a core organisation that does it for all of Wales. It will start with the first one and when it does the second, it will be quicker and more knowledgeable, and, on the third and fourth one, it will be even quicker. What you do is just bring in the local people to where that is and bring in the local knowledge.

[115] **Llyr Gruffydd:** Is that not called ‘Welsh Government’? *[Laughter.]*

[116] **Alun Ffred Jones:** We will leave that question hanging. Mick, did you want to come in?

[117] **Mick Antoniw:** Yes, I would just like to move on to the issue of sections 10 to 12 of the legislation regarding local development plans, because there is no doubt that legislation changes them to some extent. Also, a series of different views have been expressed with regard to time limits and the considerable powers that are placed in the hands of Welsh Government Ministers over these. I wonder whether you could perhaps explain your concerns about the issue of time limits and the reasons behind that as a starting point.

[118] **Alun Ffred Jones:** Who is going to take this one?

[119] **Mr Morgan:** I will just make a general observation about LDPs and the review, just to reiterate what was said. We feel that it is healthy to have a regular relook at whether the plans are still on point, whether circumstances have changed and what the current state of play is for the development industry. Being flexible is one of the key things that we want to see built into the planning system in Wales, and that ability to respond to changing circumstances, whether the economy is improving or perhaps going in the other direction is something that we regard as being particularly important.

[120] If I may, I would also like to make a more general observation on this theme of flexibility. One of the things that we have been very keen on is to make it easier for change of use for certain things, particularly from excess retail to residential. We live in the age of the internet now, and even if the economy went back to 2006 in so many ways tomorrow, there is simply less demand for shops in many areas with a lot more online retail. So, helping to convert excess retail property to residential use helps in so many ways. I think that the point was made earlier about public transport that, if you build in green fields, you have got to get the public transport there but you have also have to have the public infrastructure works—the sewerage and so on. A lot of these sites that have become vacant in town centres already have all of that anyway. So, it is beneficial in so many ways, as well as perhaps bringing regeneration to areas that need it. So, perhaps I could get that point in.

[121] **Mick Antoniw:** Specifically with regard to the issue of time limits on LDPs, do you actually think that there should be time limits? What you seem to be suggesting is just that they should be under continual review because these are living plans, really.

[122] **Mr Morgan:** Yes.

[123] **Mick Antoniw:** Then, to some extent, that actually undermines the whole purpose of having an LDP in the first place, does it not?

[124] **Mr Morgan:** I would suggest not. If you approve the plan today and you are not going to come back to it for five years, that is quite a long time in development terms for people to be coming along with applications and things. It is just a requirement really to ask, 'Has the world changed?' Hopefully, we will not go through as dramatic a change as we did in 2008, but it just goes to show—it is a prime example. The point was being made about the Wales spatial plan, which I think came out at about the same time. Nobody could have foreseen what was going to happen, but it did happen, so I think that it is just prudent to be able to ask, 'Have circumstances changed?' They might come to the conclusion that, 'No, they haven't; it's all fine, we can continue forward as previously'. It is just a prudent step, if you like.

[125] **Alun Ffred Jones:** Are there any comments? Mark is first, and then I will bring Nick in.

[126] **Mr Harris:** In terms of LDPs, currently, they are the top-level plan, really, so that is where all the figures get set. So, it will be interesting to see, if the other plans above it come in, how the importance of LDPs changes. There is already talk of a light-touch LDP. The current system, unfortunately, has not been that successful. It is 10 years since it started. They were all meant to be approved within four years. I will not quote all the figures, but we all know the position we are in. Critically, some of the major areas of growth do not have approved plans, and that has caused difficulties for the development industry. Some of our comments have been around, 'Let's try to do everything we can to get LDPs approved more quickly', but also to build in flexibility so that, even if you do not review the whole plan, you can review critical elements of the plan. So, if something changes in the world around us that has an impact on housing, green energy or whatever it is, you are able to quickly review that element of the plan without having to go through the whole plan.

[127] **Mick Antoniw:** May I just comment very briefly on that? There are very extensive powers being given to Welsh Government Ministers on these in terms of withdrawal of LDPs and joint LDPs and so on. Do you have any views on that and how that should be operated or at least how it would be accountable, because it does seem to give a fairly overwhelming power to Welsh Government to completely interpose its views in the system?

[128] **Mr Harris:** Hopefully, it will be just a threat that means that local authorities get their act together. We do have concerns about what would happen if that actually happened, because then you have to look at whether the Welsh Government is resourced and able to deal with it efficiently itself, because it is not something that it has had to do before. However, I have to say that, for a long time within the planning system, there has been a lack of threat. We may need to look at rewards as well as just threats.

[129] **Alun Ffred Jones:** Time is running out. Nick, do you want to come in?

[130] **Nick Ramsay:** Yes. I was just enjoying the reference to the Wales spatial plan—

[131] **Alun Ffred Jones:** Well, do not enjoy it—we are not here to enjoy it.

[132] **Nick Ramsay:** It has been like the Titanic over recent years. If we are talking about the Wales spatial plan, it is not the best comparison for the SDPs and their success in the long-term.

[133] **Alun Ffred Jones:** I will take that as a comment. Jenny is next.

[134] **Jenny Rathbone:** I just wanted your view on the proposal to have a time limit of five years on LDPs. One of the problems we have is the enormous number of developers who

have built up land banks that they are not actually developing on. I just wonder whether you think it would do anything to encourage developers to get on with it within a five-year time frame. If they knew that x piece of land was designated for housing for that five-year plan, would the incentive be that that might change if nothing happened within that five-year period?

[135] **Mr Francis:** Several developers, at the moment, are unable—. There is a reason for the land bank, and it is because of the clogged up nature of the current planning system. So, with regard to putting any kind of time limit in place, I think that the fact that this Bill is looking to unclog a lot of the constraints for developers to be able to get on to start on site, I think, is positive. I think that the focus on that needs to be the first priority.

[136] **Jenny Rathbone:** Okay, but if you knew that the LDP was only for five years, would it then incentivise developers to get on with the x, y or z housing proposal?

[137] **Mr Francis:** In terms of the ability to get on, obviously, for any developers to be able to raise finance to be able to start on site, there needs to be some planning permission in place in the first place.

[138] **Jenny Rathbone:** Indeed. Absolutely, but you are saying that it is because there are no LDPs in place that everything is clogged up in the system. I am asking if you had a five-year time limit on LDPs, would it incentivise developers to get on with things within that five-year timescale.

[139] **Mr Francis:** I think that it is a wider issue than just a time limit. I think that the other issues need to be examined, first of all, and those need to be improved in order for developers to be able to comply with the five-year time limit.

[140] **Jenny Rathbone:** Okay.

[141] **Alun Ffred Jones:** I am going to go to Julie Morgan now, and then to Russell afterwards.

[142] **Julie Morgan:** This is on a new subject now. Is that all right?

[143] **Alun Ffred Jones:** Yes.

[144] **Julie Morgan:** I was going to ask you about town and village greens, and the fact that the Bill does change the way that town and village greens are established. I wanted to ask for your view about that. Do you have any evidence that the present system is being used to frustrate development?

[145] **Alun Ffred Jones:** Who is going to take that question? Mark Harris.

[146] **Mr Harris:** Yes. We are fully supportive of the changes because the Bill is about speeding up the planning process. Currently, you could have gone through getting your land allocated in a plan, you could have put your planning application in, you could be at a very advanced stage of getting your application approved, and then someone comes along and says, 'This is a village green', and it delays the whole thing by two years. It is system that has been in in England for a couple of years, I believe. I do not think that the change has caused any major issues in England. We are fully supportive of it and see it as another way of helping to speed up the planning process and the development process.

[147] **Julie Morgan:** Do you have any actual evidence where this has happened, and where it has not ended up in being a village green in the end?

[148] **Mr Harris:** I do not have specific cases, but I am sure that I could provide specific cases if you wanted me to do so.

[149] **Julie Morgan:** Yes, if you have any specific cases, I think that would be helpful.

[150] **Mr Harris:** I do not have them now, but I will be able to make them available.

[151] **Julie Morgan:** That would be useful. Thank you. Does anyone else have—

[152] **Mr Williams:** I think that we would also be able to provide examples of where town and village green applications have been used to slow down development.

[153] **Alun Ffred Jones:** If you have examples, send them in.

[154] **Mr Williams:** I will. I will have to check with members.

[155] **Julie Morgan:** The other thing—

[156] **Alun Ffred Jones:** I will come back to you now. William Powell, is your question on this issue?

[157] **William Powell:** Not on this. It is a fresh topic, Chair.

[158] **Alun Ffred Jones:** All right. Is your question on this issue, Mick?

[159] **Mick Antoniwi:** Yes. It is the balance, is it not, between the interests of the developers, but also not overriding the interest of the community? Do you not think that the position that you all seem to have adopted in respect of development and the interest of the community shifts the balance too far away from actually protecting the interests of communities with green spaces, open spaces, and so on?

[160] **Mr Harris:** Ultimately, the ability to designate a piece of land as a village green is there now in legislation. So, someone can do it regardless of there being a planning application proposal, as I understand. This comes back to my point that, in the past, LDPs have not engaged well with the public. It is at that stage—. This does not take away the right to complain at that stage; it takes away the right to complain at the detailed planning stage. So, it means that people need to engage earlier in the planning process.

[161] **Mick Antoniwi:** So, it is the failure of the engagement that is actually the core of the problem rather than—

[162] **Mr Harris:** Yes.

[163] **Julie Morgan:** You will accept, perhaps, that when a planning application is put in, that is the first time that many local residents may realise that they have been using that bit of land for over 20 years.

[164] **Mr Harris:** I do not think that I would accept that. If they have been using it for 20 years, they know that they have been using it for 20 years.

[165] **Julie Morgan:** Yes, but—

[166] **Mr Harris:** The use of it is not triggered by the planning application. Their fear of losing it is triggered by the planning application

[167] **Julie Morgan:** Yes, absolutely. That is what I mean. The Minister has made a suggestion that he might consider an amendment that would allow town and village green registration applications up to the point until planning permission is granted. I do not know whether you have any views on that.

10:15

[168] **Mr Harris:** I think that, unfortunately, that would undermine what is trying to be achieved currently, which is to take away another element that slows down the planning system and slows down development. So, as long as it stays at the local development plan stage, where land is being allocated, that is fine, but it should not come in at the detailed stage.

[169] **Julie Morgan:** Okay, thank you.

[170] **Alun Ffred Jones:** Russell is next.

[171] **Russell George:** I wanted to ask some questions on the potential democratic deficit. I know that we had some earlier questions on this, but in a wider sense, in England, for example, there is the Localism Act 2011, which is empowering parish councils and even communities to set themselves up and come forward with their own plans. Some witnesses have said that what we see before us now is putting power in the hands of Welsh Ministers and taking it away from communities to input their own plans. I wonder, in a wider sense, whether you have any comments on that and how communities can feel engaged and come up with their own proposals.

[172] **Alun Ffred Jones:** Are there no comments?

[173] **Mr Miles:** I would just make the comment that a lot of the areas where powers are being centralised will relate to bigger developments. So, obviously, from our perspective, the focus is still going to be on local authorities for a lot of our members who are making applications.

[174] **Russell George:** I think that if I may go on, we could tease out some answers on this. Certainly, we have technical advice notes. In my own community, there is one particular technical advice note, TAN 8, that lots of my constituents have very strong views on, but they did not have views when it was being consulted on five or six years ago, because developments have come along since that have caused a conflict. So, what I am saying is: how can we ensure that communities are fully engaged in the right process? How do you engage communities to be involved at the right time?

[175] **Mr Pockett:** Just as a general point, I think, and one that is not specific to this, I would have thought that if you have a good consultation process, in whatever you are doing, that is where you get community involvement. I think that that is basic to democracy, local, national or whatever, surely. I also think that it is part of the scrutiny process to ensure that that is enshrined in this Bill.

[176] **Russell George:** I think that you are absolutely right, but it is getting that. How do you get that good and meaningful consultation?

[177] **Alun Ffred Jones:** I think that that is an unfair question, almost, for this panel.

[178] **Mr Harris:** My response is that I do not have the answer, but as long as we accept that the system that we have used to date does not work, and that we need to think of doing it

differently, then that is a good step towards an opportunity for people to engage better.

[179] **Russell George:** I think that Matthew Williams wants to come in.

[180] **Mr Williams:** You mentioned the localism Act. The localism Act also sets a precedent for Ministers deciding on nationally significant infrastructure in England, under the NSIP process.

[181] **Alun Ffred Jones:** Sorry, but could you speak up?

[182] **Mr Williams:** Sorry. The localism Act and the Planning Act 2008 set a precedent for Ministers and the Secretary of State in England to decide on nationally significant infrastructure under the NSIP process. So, I do not think that it is quite true to say that the localism Act is setting an opposite precedent in England to what this Bill is intending. I think that they are actually broadly similar processes for larger infrastructure.

[183] **Alun Ffred Jones:** There are quite a number of areas that we have not touched on yet. Jeff, do you want to take some of the questions?

[184] **Jeff Cuthbert:** Thank you. Part 4 of the Bill is on developments of national significance. In particular, the HBF, the RICS and Renewable UK appear to support the introduction of that category. You think that it could ease the burden on LPAs and developers. Do you have any comments on the issue of timelines and time frames for this to be done by the Welsh Government, or, indeed, performance targets, perhaps, that ought to be applied? Linked to it is the issue of the option to make applications directly to Welsh Ministers and, again, the sort of time frames and performance indicators that may apply to the Welsh Government.

[185] **Mr Williams:** Briefly, under the planning Act and the localism Act in England, time frames for examination of developments are within the primary legislation, or, at least, part of the time frame is, and we do not see any reason why that should not be the case in Wales for—[*Inaudible.*—]significance.

[186] **Alun Ffred Jones:** Are there any other comments?

[187] **Mr Miles:** Just on the issue about the option to make applications to the Welsh Government, I think, if I am reading it correctly, that the instances where that would happen would be where a local planning authority is deemed as failing. One of the things that we would like to know, or would like to see examined in further detail, is whether that will relate to categories of application. So, again, will it be large developments that have that option, which sounds like it is the case if you follow the DNS and strategic kind of logic, or will people start making applications to the Welsh Government for change of use, for example? At what level is there a cut-off point? That does have implications then if a local planning authority is deemed as badly performing, and you are going to let a lot of the small businesses with a badly performing local authority while larger developments have preferential treatment.

[188] **Jeff Cuthbert:** Linked to that, do you think that those local planning authorities that are working well should be rewarded or recognised in some way?

[189] **Mr Miles:** I think, as a general principle, yes. Absolutely.

[190] **Mr Francis:** The process of planning is not simply just with the planning department. It is the ability to co-ordinate all of the other departments within the local authorities; so, your legal department, your highways department and your drainage department, particularly now

with things like the attenuation systems now coming into place. So, if it was going to pass over to the Welsh Government, there needs to be a real focus on how the Welsh Government itself would cope with that. Currently and practically, at the moment, there is a huge issue where, just about in any council, there might be a whole host of departments across the corridor from each other, but you cannot get the legal department to phone up the highways department, and the highways department will not speak to the drainage department, and it completely slows the whole process down. If that was extended to the Welsh Government, there would have to be a real focus on how to ensure that those difficulties do not just transfer to Cardiff.

[191] **Mr Morgan:** Just on that point about incentivisation or rewarding local authorities that are doing well, I think that perhaps it would be great if the same principle could be applied to developers. So, say, for instance a developer went a little bit further in terms of an environmental standard or some other social goal that was being required, is there a way to show appreciation of that? Obviously, there are a lot of requirements in legislation that a developer must do x, y and z, but it is a matter of trying to bring the carrot into the system as well. So, with regard to payment of property taxation, perhaps if a developer was being a bit more forward in certain areas—perhaps, as I say, with certain environmental goals—perhaps he could be allowed to spread his payment over a period of time. There are many different options, but I do think that, as a general principle, we should get that sort of principle incentivisation into the system as well as requirements.

[192] **Alun Ffred Jones:** Do you want to pursue this any further?

[193] **Jeff Cuthbert:** No, not this particular point, but there was another matter that maybe I will come back to if there is time.

[194] **Alun Ffred Jones:** I think that we are running out of time; I am sorry about that. William, did you have a question?

[195] **William Powell:** Yes, Chair, and it relates to the issues that Jeff Cuthbert has just raised in terms of incentivising good practice. Also, we have been hearing about carrots, but then the stick that the Minister is preparing for himself is giving the opportunity for applications to be taken directly to the Minister. What are your thoughts on that, in principle, and in what ways would you like to see failing authorities actually supported to get out of a bad place? I suspect that some of you have experience of that and, if we had more time, you could share that experience of working with and the frustration of dealing with failing authorities. But, they can move forward.

[196] **Alun Ffred Jones:** I think that Mr Francis has indicated the problems of failing authorities and the difficulties that you have, and the lack of co-ordination between departments has been singled out.

[197] **William Powell:** It is certainly important.

[198] **Alun Ffred Jones:** Is there any other comment on this? Mark Harris.

[199] **Mr Harris:** Just on the issue of applications ending up with the Welsh Government, effectively, it is a matter of understanding how we will be able to engage in that process. Currently, you will have a relationship with an officer within the local authority and you will know where they are—you know that you can go to speak to them. They may not be achieving what you want them to achieve in the timescale, but there is that fear that it will be seen as disappearing into the Welsh Government, that you will not know who is dealing with it, that there will not be an open door, and you will lose control and just sit there waiting for bits of paper to come out, asking you questions. It is just a matter of understanding the ability

to continue to engage.

[200] **William Powell:** There is also a danger of alienation of communities as well, in parallel to your own sentiments, I think.

[201] **Mr Harris:** Just on incentives, the issue around that is that, actually, there are lots of ways of doing it, but the fundamental issue is what happens to the money. The problem is that, at the moment, it will go into local government, but it will not stay with planners, even if you are rewarding the planners for good work; it will go into the central budget.

[202] **Alun Ffred Jones:** Right. This is the very last question, Jenny.

[203] **Jenny Rathbone:** I have a question around Part 5, design and access statements. The draft Bill proposes that there will no longer be a duty to provide design and access statements once outline planning permission has been given and that this would be dealt with in building regulations. I wondered what the implications of that might be. Would you then expect to see minimum standards set in the outline planning for, say, environmental standards?

[204] **Alun Ffred Jones:** Is anybody going to take this?

[205] **Mr Harris:** I think that there is a role for some sort of documents similar to design and access statements, particularly with larger developments. I think that the issue has been that there has been a requirement for them for a person who is doing an extension on their house and it has just not been a document suitable for that level of development. However, I think at the larger scale of development, there is definitely room for something along those lines.

[206] **Mr Francis:** If I could tag on to that, the principle of design and access statements is a sensible principle, but it should not be applied uniformly and universally.

[207] **Jenny Rathbone:** Okay, thank you.

[208] **Alun Ffred Jones:** A gaf i ddiolch **Alun Ffred Jones:** May I thank you very yn fawr iawn i chi? much?

[209] May I thank you very much for coming in and for presenting your views so forthrightly? You will receive a copy of the transcript to check for accuracy.

[210] Diolch yn fawr unwaith eto i chi gyd. Thank you to all once again.

[211] We will take a break for five minutes or so; be back as soon as you can. Diolch yn fawr iawn.

*Gohiriwyd y cyfarfod rhwng 10:26 a 10:36.
The meeting adjourned between 10:26 and 10:36.*

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 10 Planning (Wales) Bill: Stage 1—Evidence Session 10

[212] **Alun Ffred Jones:** Croeso yn ôl i'r **Alun Ffred Jones:** Welcome back to this sesiwn dystiolaeth; dau o staff Comisiynydd evidence session; we have staff from the y Gymraeg sydd efo ni. A gaf groesawu office of the Welsh Language Commissioner. chi'ch dau yma? A gaf i ofyn i chi yn gyntaf May I welcome you both here? May I ask gyflwyno eich hunain a dweud eich you first of all to introduce yourselves and

swyddogaethau yn y comisiwn? Wedyn gofynnaf i'r Aelodau ofyn eu cwestiynau.

state your roles in the office of the commissioner? Then I will ask the Members to ask their questions.

[213] **Mr Sion:** Diolch yn fawr. Dyfan Sion ydw i, cyfarwyddwr polisi ac ymchwil.

Mr Sion: Thank you very much. I am Dyfan Sion, director of policy and research.

[214] **Mr Gapper:** Huw Gapper ydw i, uwch-swyddog polisi ac ymchwil.

Mr Gapper: I am Huw Gapper, senior policy and research officer.

[215] **Alun Ffred Jones:** Diolch yn fawr iawn. Reit, Mick Antoniw sy'n dechrau'r holi.

Alun Ffred Jones: Thank you very much. We have Mick Antoniw to start with.

[216] **Mick Antoniw:** First, thank you for perhaps just focus a little bit on the aspects of the evidence relating to the Bill itself and the purposes of the Bill, and the evidence about the lack of a specific focus or framework on provision for the Welsh language within it.

[217] **Mr Sion:** Sail y gyfundrefn gynllunio yng Nghymru yw deddfau a wnaed yn San Steffan yn bennaf. Mae'r deddfau hynny wedi'u hategu gan is-ddeddfwriaeth yn y Cynulliad ac yn San Steffan, felly, o ran prif bwrpas y Bil, rydym yn deall yr angen efallai i symleiddio'r gyfundrefn honno, ac mae hynny'n rhywbeth yr ydym yn ei groesawu. Wedi dweud hynny, fel yr ydym wedi dweud yn y dystiolaeth ysgrifenedig, rydym o'r farn bod y Bil yn gynnig cyfle unigryw i sicrhau bod ystyriaeth o'r Gymraeg yn rhan ofynnol o'r fframwaith cynllunio statudol, ac rydym yn siomedig nad yw'r Llywodraeth wedi manteisio ar y cyfle hwn i wneud hynny. O ran yr hyn yr ydym wedi ei gynnig yn ein tystiolaeth, yn amlwg, mae'r Bil yn gosod fframwaith newydd ar gyfer y gyfundrefn gynllunio yng Nghymru, a hynny'n seiliedig ar gynllun cenedlaethol yn y lle cyntaf, a chynllun cynllunio strategol wedyn, ac yna gynlluniau datblygu lleol. Yr hyn yr ydym yn ei gynnig yw bod y fframwaith o asesu effaith ieithyddol yn rhywbeth sy'n cael ei osod fel cam gofynnol yn y fframwaith newydd hwnnw.

Mr Sion: The basis of the planning system in Wales is legislation made at Westminster, for the most part. That legislation is backed by subordinate legislation made in the Assembly and at Westminster, so, in terms of the main purpose of the Bill, we understand the need to perhaps rationalise that regime, and it is something that we welcome. Having said that, as stated in our written evidence, we are of the opinion that the Bill provides a unique opportunity to ensure that consideration of the Welsh language is a requirement in the statutory planning framework, and we are disappointed that the Government has not taken this opportunity to achieve that. With regard to what we have proposed in our evidence, clearly, the Bill sets out a new framework for the planning regime in Wales, which is based initially on a national plan and then a strategic development plan, followed by local development plans. What we propose is that the framework of language impact assessment be something that should be placed as a requirement within that new framework.

[218] Mae hynny wedi cael ei dderbyn mewn polisi ac mewn canllaw yn barod, ond nid yw hynny'n rhywbeth sy'n statudol ac yn ofynnol ar hyn o bryd. Mae'n tystiolaeth ni'n awgrymu nad yw hynny'n gweithio. Felly, mae angen yr elfen ychwanegol honno o orfodaeth, rydym yn teimlo, trwy'r Bil.

That has been accepted in policy and in guidance already, but it is not statutory and it is not a requirement at present. Our evidence suggests that that is not currently working, so we do need that additional element of enforcement through the Bill.

[219] **Mick Antoniw:** If I may just follow on from that, the future generations Bill, of

course, does provide a framework that has specific reference to the Welsh language. How do you see those two pieces of legislation working alongside each other? Do you think that it is sufficient that you would have, say, the future generations Bill setting a framework, but the planning Bill then focusing, essentially, on process, or do you think it needs to go further?

[220] **Mr Sion:** Rwy'n meddwl bod y ddarpariaeth ym Mil cenedlaethau'r dyfodol yn ddarpariaeth eang iawn, ac rwy'n meddwl bod trafodaethau ar hyn o bryd ynghylch sut yn union y byddai hynny'n gweithio. Ein barn ni yw bod y maes cynllunio yn faes technegol cymhleth, ac er bod darpariaethau eang, cyffredinol eraill efallai yn bodoli, neu fe fyddant yn bodoli, mae angen system benodol ar gyfer asesu effaith ar y Gymraeg o fewn y gyfundrefn gynllunio. Felly, rydym yn teimlo, er bod y darpariaethau eraill hynny yn cael eu datblygu ar hyn o bryd, mae angen rhywbeth penodol o fewn y gyfundrefn gynllunio.

Mr Sion: I think that the provision in the future generations Bill is very broad indeed, and I think that there are discussions at present as to how exactly that would work. Our view is that the planning area is such a technically complex one that, although broad provisions may be in existence or coming into existence, we need a specific system for language impact assessment within the planning system. Therefore, we feel that, although those other provisions are currently being developed, something specific is needed within the planning regime.

[221] **Llyr Gruffydd:** Yn amlwg, rydym wedi cael tystiolaeth gan Gymdeithas yr Iaith Gymraeg, Dyfodol i'r Iaith, ac eraill, ac rydym yn ymwybodol iawn bod arweinyddion a chynghorwyr mewn o leiaf wyth, rwy'n meddwl, awdurdod lleol yng Nghymru wedi ysgrifennu at y Gweinidog, yn dweud eu bod nhw yn teimlo bod y trefniadau presennol yn annigonol, ond, yn fwy na hynny, eu bod nhw yn teimlo y dylid bod modd i wrthod ceisiadau cynllunio ar sail impact uniongyrchol y datblygiad ar yr iaith. A fydddech yn cytuno bod na le i greu'r ddarpariaeth honno o fewn y Bil?

Llyr Gruffydd: Obviously, we have received evidence from the Welsh Language Society, Dyfodol i'r Iaith, and others, and we are very aware that leaders and councillors within at least eight, I believe, local authorities in Wales have written to the Minister, saying that they feel that the current arrangements are insufficient, but, more than that, that they feel that there should be a way of rejecting planning applications based on the direct impact of a development on the language. Would you agree that there is room to create that provision within the Bill?

[222] **Mr Sion:** Byddwn, yn sicr. Yr hyn yr ydym eisiau ei weld yn digwydd yw bod fframwaith statudol ar gyfer asesu effaith ieithyddol ar gynlluniau datblygu, ond rydym hefyd o'r farn bod angen hyblygrwydd yn y ddarpariaeth honno wrth ystyried ceisiadau cynllunio unigol hefyd. Yr hyn y mae 'Polisi Cynllunio Cymru' a nodyn cyngor technegol 20 yn ei ddweud ar hyn o bryd yw bod angen asesiad ar gynlluniau datblygu, ond nid ydynt yn delio â cheisiadau cynllunio unigol. Y feddylfryd yw y dylai hynny ddigwydd wrth ystyried y cynllun datblygu yn ei gyfanrwydd. Mae hynny yn synhwyrol, ei fod yn digwydd ar y pwynt hwnnw, ond, wrth reswm, efallai y bydd ceisiadau cynllunio yn codi sydd y tu allan neu tu hwnt i'r cynllun datblygu. Efallai y bydd ceisiadau cynllunio eraill sydd yn rhai sylweddol iawn ac a ddylai

Mr Sion: Yes, certainly. What we want to see happening is that there is a statutory framework for assessing language impact on development plans, but we are also of the opinion that there needs to be flexibility within that requirement in considering planning applications as well. What 'Planning Policy Wales', and technical advice note 20 state at present, is that there needs to be an assessment for development plans, but they do not deal with individual planning applications. The thinking is that that should happen in considering the development plan as a whole. That is sensible, that it should happen at that point, but, naturally, there may be planning applications that may arise that may be outwith or beyond the scope of the planning application. There may be other planning

fod yn destun i asesiad penodol. Felly, yn sicr, rydym yn cytuno gyda'r safbwynt hwnnw.

[223] Mae'n bwysig cofio hefyd, rwy'n credu, beth yw nod unrhyw fath o asesiad effaith. Nod asesiad effaith, boed yn ieithyddol neu yn amgylcheddol, yw ystyried, yn y lle cyntaf, beth yw impact y datblygiad ar y pwnc dan sylw, ac, os oes effaith negyddol, bod hynny wedyn un ai yn cael ei atal neu ei liniaru, neu, os oes effaith positif, bod modd hefyd i gynyddu hynny.

[224] **Llyr Gruffydd:** Rydym wedi derbyn tystiolaeth gan Gymdeithas y Gyfraith, sy'n codi cwestiynau ynglŷn ag ansawdd y broses o greu asesiadau impact ieithyddol ac anghysondeb posibl. Rwy'n tybio y byddech chi'n gweld rôl i swyddfa'r comisiynydd o safbwynt gosod rhyw fath o safon penodol ar gyfer y math hwnnw o broses yn genedlaethol.

[225] **Mr Sion:** Ie, efallai y down yn ôl at dystiolaeth Comisiwn y Gyfraith wedyn, ond, i ateb yr ail gwestiwn yn gyntaf, o ran rôl y comisiynydd, yn amlwg, mae gennym rôl yn y gyfundrefn gynllunio. Rydym yn ystyried bod cynllunio yn gallu cael effaith ar gymunedau Cymraeg, ac mae hynny'n rywbeth sy'n cael ei dderbyn gan y Llywodraeth. Mae cyfeiriad at hynny yn strategaeth 'Iaith Fyw: Iaith Byw' y Llywodraeth, a hefyd yn 'Polisi Cynllunio Cymru'. O ran rôl y comisiynydd o ran darparu methodoleg neu ganllaw pellach, mae'n bwysig bod y Llywodraeth yn arwain ar hyn, achos y Llywodraeth sy'n gyfrifol am bolisi cynllunio Cymru.

[226] Mae ymgais wedi bod yn y gorffennol, er enghraifft, i ddatblygu methodoleg ar gyfer asesu effaith ieithyddol. Daeth nifer o awdurdodau cynllunio a Bwrdd yr Iaith Gymraeg ar y pryd ynghyd i wneud hynny. Fe gafodd y ddogfen honno ei chyflwyno i'r Llywodraeth. Y bwriad oedd ei bod hi'n cael ei defnyddio wedyn i ddiwygio nodyn cyngor technegol 20. Ni wnaeth hynny cweit ddiwydd. Fodd bynnag, mae nifer o awdurdodau cynllunio yn dal i ddefnyddio'r fethodoleg honno ar gyfer asesu effaith. Y

applications that are very substantial and which should be subject to a particular assessment. Therefore, certainly, we agree with that viewpoint.

It is also important to bear in mind, I think, what the aim of any impact assessment is. The aim of an impact assessment, be it of the impact on language or on the environment, is to consider, first of all, what the impact of that development will be in the particular area being considered, and, if there is a negative impact, that that should either be prevented or alleviated, or, if there is a positive impact, that that could be enhanced.

Llyr Gruffydd: We have received evidence from the Law Society that raises questions in relation to the quality of the process of creating language impact assessments and possible inconsistency. I assume that you would see a role for the commissioner's office in terms of setting some sort of specific standard for that kind of process nationally.

Mr Sion: Yes, perhaps we will return to the Law Society's evidence later, but, to answer your second question first, in terms of the role of the commissioner, clearly, we have a role in the planning system. We believe that planning can have an impact on Welsh-speaking communities, and that is something that is accepted by the Government. There is reference to that in the Government's 'A living language: A language for living' strategy, and also in 'Planning Policy Wales'. In terms of the role of the commissioner in providing a methodology or further guidance, then it is important that the Government leads on this, because it is responsible for planning policy in Wales.

There has been an attempt in the past, for example, to develop a methodology for assessing language impact. A number of planning authorities and the Welsh Language Board at that time came together to do that. That document was presented to the Government. The intention was that it should then be used to amend technical advice note 20. That did not quite happen. However, a number of planning authorities still use that methodology to assess impact. The difficulty, I believe, is that the Government has not then

drafferth yw, rwy'n credu, nad yw'r Llywodraeth wedi mabwysiadu hwnnw wedyn. Felly, mae'n bwysig cofio rôl arweiniol y Llywodraeth yn y maes hwn. Yn sicr, o ran y comisiynydd, rydym yn fodlon iawn cynghori a chymryd rhan yn y broses, ond o ran unrhyw fethodoleg genedlaethol, mae'n rhaid i hynny ddod gan y Llywodraeth.

adopted that. Therefore, it is important to remember the leading role that the Government has in this area. Certainly, in terms of the commissioner, we are more than happy to advise and participate in the process, but, in terms of any national methodology, that has to come from Government.

[227] **Jeff Cuthbert:** As has been mentioned, the Well-being of Future Generations (Wales) Bill will include, as part of one of the goals, the duty on all public bodies, and that would include planning authorities, to ensure that there is a thriving Welsh language. Do you think that that may lead to more applications being considered as a development of national significance requiring Welsh Government action?

10:45

[228] **Mr Sion:** Rwy'n meddwl, ar hyn o bryd, ei bod yn anodd inni ragweld beth fydd effaith Bil cenedlaethau'r dyfodol, ond, yn sicr, o ran y cwestiwn ynghylch datblygiadau o effaith genedlaethol, mae o'n rhan o'r fframwaith sy'n cael ei gynnig. Yr hyn yr ydym ni'n dymuno ei weld yw bod gofyniad yn y Bil ar gyfer asesiad effaith ym mhob haen o'r fframwaith newydd. Felly, byddai hynny'n digwydd efo cynlluniau datblygu lleol, cynlluniau strategol rhanbarthol a hefyd ar lefel genedlaethol. Felly, i ateb y cwestiwn, ydyn, rydym ni'n cytuno bod yna rôl i'r Llywodraeth fod yn asesu effaith unrhyw ddatblygiadau o effaith genedlaethol hefyd.

Mr Sion: I think, at present, it is difficult for us to foresee what the impact of the future generations Bill will be, but, certainly, in terms of the question about developments of national significance, it is one part of the proposed framework. What we want to see is there being a requirement in the Bill for an impact assessment in every layer of the new framework. Therefore, that would happen with the local development plans, the regional strategic plans and also at the national level. So, to answer the question, yes, we agree that there is a role for the Government to be impact-assessing any development of national significance, too.

[229] **William Powell:** As Llyr Gruffydd said, local authorities across Wales—at least eight leaders—have been calling for additional protection for the Welsh language in the planning Bill, and that is an important point to emphasise. However, are you aware of international examples of linguistic concerns being the basis of a statutory framework, in the way that has been proposed?

[230] **Mr Sion:** Ydyn. Mae yna enghraifft yn Iwerddon. Mae'r *Planning and Development Act 2000* yn Iwerddon yn cynnwys nifer o gyfeiriadau at yr iaith Wyddeleg yn y fan honno. Mae'n delio'n bennaf â'r Gaeltacht yn Iwerddon, felly'r angen i asesu effaith ar yr ardaloedd hynny. Yn sicr, mae honno'n enghraifft sy'n agos atom, felly efallai y gall fod yn rhywbeth y gallwn ei ystyried ymhellach. Felly, mae o'n digwydd. Yn amlwg, mae amgylchiadau pob gwlad yn wahanol, ond mae rhai enghreifftiau y dylem eu hystyried ymhellach, rwy'n credu.

Mr Sion: Yes. There is an example in Ireland. The Planning and Development Act 2000 in Ireland contains a number of references to the Irish language there. It deals primarily with the Gaeltacht in Ireland, and with the need to assess the impact on those heartlands. Certainly, that is an example that is close by, so perhaps that is something that we could give further consideration to. So, it does happen. Clearly, the circumstances of every country will be different, but there are examples that we should be considering further, I believe.

[231] **William Powell:** Do you believe that the Welsh Language Commissioner should be given the status of a statutory consultee in planning applications, as I think has been advocated by cymdeithas yr iaith?

[232] **Mr Sion:** Mae cwpl o bethau yn y fan yma. Fel yr wyf wedi'i ddweud yn barod, yn sicr, rydym yn cydnabod bod gennym rôl yn y gyfundrefn gynllunio, oherwydd ei bod yn faes sy'n ddylanwadol ar gymunedau Cymraeg. Mae gan y comisiynydd, yn amlwg, gyfrifoldebau a swyddogaethau statudol penodol sy'n deillio o Fesur y Gymraeg, ac mae gweithredu y tu hwnt i'r gofynion statudol hynny yn mynd yn gynyddol anodd oherwydd amgylchiadau economaidd. Erbyn y flwyddyn ariannol nesaf, er enghraifft, mi fyddwn wedi cael cwtogiad o tua chwarter ein cyllideb mewn termau real. Felly, mae yna *issues* yn y fan honno i ni os ydym yn cael swyddogaethau ychwanegol. Mae hynny'n rhywbeth y mae'r sefydliad cynllunio trefol wedi'i amlygu hefyd yn ei dystiolaeth i'r pwyllgor, lle mae'n dweud y dylai unrhyw ymgynghorai statudol gael yr adnoddau priodol i ddelio â'r gofynion a fydd arnynt. Yn sicr, rydym yn cefnogi hynny.

[233] Y pwynt olaf yw efallai fod yna risg hefyd. Oni bai bod y Gymraeg yn rhan o'r fframwaith cynllunio statudol, efallai na fyddai'r statws o ymgynghorai statudol yn gallu golygu llawer wedyn. Hynny ydy, mae angen y pecyn cyfan mewn gwirionedd. Mae angen i'r asesiadau effaith ieithyddol fod yn statudol yn y broses hefyd.

[234] **Alun Ffred Jones:** Hyd y deallaf i, yn ôl tystiolaeth Cymdeithas y Cyfreithwyr—sydd wedi'i gosod mewn termau niwlog braidd, i leygwr, ond, hyd y gwelaf i—un o'r gwrthwynebiadau i ddefnyddio'r Gymraeg wrth asesu ceisiadau unigol yw na allwch wahaniaethu ar sail ieithyddol wrth roi caniatâd cynllunio. Cewch chi ddim dweud, 'Yn y tŷ hwn, neu'r tai hyn, dim ond Cymry Cymraeg neu ryw grŵp arall sy'n cael mynd yno'. Ni chewch wneud hynny dan ddeddfau rhyngwladol. Felly, onid yw hynny'n golygu ei fod yn amhosibl defnyddio'r Gymraeg wrth asesu ceisiadau cynllunio?

[235] **Mr Sion:** Na, dim o gwbl. Yr hyn yr ydym ni'n gofyn amdano yw bod y broses o

Mr Sion: There are a couple of points here. As I have already said, we certainly recognise that we have a role in the planning regime because it is an area that has a bearing on Welsh-speaking communities. The commissioner, obviously, has statutory responsibilities and functions resulting from the Welsh language Measure, and operating beyond those statutory requirements is becoming increasingly difficult because of the economic circumstances. By the next financial year, for example, we will have faced a cut of around a quarter of our budget in real terms. So, there are issues there for us if we are given additional functions. That is something that the town planning institute has highlighted in its evidence to the committee, where it says that any statutory consultee should have the appropriate resources to deal with the demands placed on them. We would certainly support that.

The final point is that perhaps there is a risk, too. Unless the Welsh language is part of the statutory planning framework, perhaps the status of being a statutory consultee would not mean that much, then. That is, there needs to be the whole package. The language impact assessments would have to be a statutory part of the process.

Alun Ffred Jones: As I understand it, from the evidence of the Law Society—which is couched in rather vague language, at least to a layperson, but, as far as I can see—one of the objections to using the Welsh language to assess individual applications is that you cannot discriminate on the basis of language when awarding planning consent. You cannot say, 'In this house, or these houses, only Welsh speakers or some other group may actually live there'. You cannot do that under international legislation. So, does that not mean that it is impossible, therefore, to use the Welsh language in assessing planning applications?

Mr Sion: No, not at all. What we are asking for is that the process of assessing the impact

asesu effaith yn digwydd. Nid yw hynny o reidrwydd yn golygu na all rywun ddewis byw mewn tai penodol. Yr hyn yr ydym yn galw amdano yw asesu effaith datblygiadau. Felly, mae hynny'n gwbl wahanol i'r cwestiwn hwnnw gan Gymdeithas y Cyfreithwyr. Huw, nid wyf yn gwybod a wyt ti eisiau ychwanegu at hynny.

[236] **Mr Gapper:** Fel y mae Dyfan wedi'i ddweud, mae'r broses o asesu effaith yn digwydd o ran yr amgylchedd ac ystyriaethau materol eraill. Nid yw hynny'n fwy nag asesiad. Nid yw hynny'n ynddo'i hun yn rhwystro unrhyw un rhag gwneud unrhyw beth na byw lle maent yn dymuno byw. Mae ynglŷn â'r effaith ar y datblygiad ac nid yr effaith ar ryddid neu hawliau unigolion.

[237] **Alun Ffred Jones:** Rydych chi'n ymwrthod felly â'r honiad hwn—neu beth bynnag ydyw—y byddai asesiad ieithyddol yn golygu eich bod yn gwahaniaethu ar sail hil neu ar sail iaith.

[238] **Mr Gapper:** Ni welwn sut y byddai hynny'n gallu digwydd.

[239] **Alun Ffred Jones:** Mick sydd nesaf.

[240] **Mick Antoniw:** I was interested in that clarification on the legal position. It is not just international law; it is UK law, as well. However, how does what you have said actually contradict or indicate that what is proposed within the future generations Bill is insufficient? Is that not exactly what is being proposed within the future generations Bill: that that has to be a key criteria within the framework within which public bodies act? I understand how the two bits of legislation will work together, but does not what you say mean that, in actual fact, the future generations Bill will provide precisely what it is that you are asking for?

[241] **Mr Sion:** Rwy'n meddwl mai'r *issue* yn y fan hon yw manylder unrhyw ddarpariaeth o dan y Bil cenedlaethau'r dyfodol. Mae'n bwysig cofio hefyd mai un o'r pethau eraill yr ydym yn gweithio arnynt ar hyn o bryd yw gosod cyfundrefn safonau i'r Gymraeg. O dan y gyfundrefn safonau, mae safonau llunio polisi hefyd, lle mae gofyn i awdurdodau cyhoeddus ystyried yr effaith ar y Gymraeg wrth lunio polisiau. Felly, eto, mae honno'n ddarpariaeth ychwanegol sy'n berthnasol.

[242] Yr *issue* yn y gyfundrefn gynllunio yn benodol—ac efallai fod hwn yn unigryw i'r gyfundrefn gynllunio—yw, oherwydd ei fod yn faes mor dechnegol a chymhleth,

takes place. That does not necessarily mean that someone cannot choose to live in certain houses. What we are asking for is for an assessment of the impact of developments. So, it is totally different to that question from the Law Society. Huw, I do not know whether you want anything to add to that point.

Mr Gapper: As Dyfan has said, the impact assessment process happens in respect of the environment and other material considerations. That is nothing more than an assessment. That does not, in and of itself, preclude anyone from living where they choose to live. It is the impact of the development rather than the impact on the rights or freedoms of an individual.

Alun Ffred Jones: So, you refute this allegation—or whatever it is—that a language impact assessment would mean discriminating on the basis of race or language.

Mr Gapper: We do not see how that could be the case.

Alun Ffred Jones: Mick is next.

Mr Sion: I think the issue here is the detail of any provision in the future generations Bill. It is important to bear in mind that one of the other things that we are working on at present is to put in place a standards regime for the Welsh language. Under that standards regime, there are policy-making standards, where public authorities are required to consider the impact on the Welsh language in formulating policy. So, again, that is an additional provision, which is relevant.

The issue with the planning system specifically—and this may be unique to the planning regime—is that, because it is such a technical and complex area, I think that you

rwy'n meddwl bod angen darpariaeth benodol ar gyfer y Gymraeg oddi mewn iddi. Rwy'n cymryd y pwynt bod darpariaethau eraill sy'n berthnasol, a bydd angen ystyried sut mae'r holl bethau hyn yn plethu efo'i gilydd. Fodd bynnag, rydym yn credu bod angen darpariaeth benodol yn y maes cynllunio.

[243] **Alun Ffred Jones:** A ydych chi'n credu y dylai fod yn bosibl derbyn neu wrthod cais cynllunio ar sail yr effaith y gallai ei gael ar y Gymraeg yn unig—gan bwysleisio yr 'yn unig'?

[244] **Mr Sion:** Eto, mae hwn yn mynd yn ôl, yn y lle cyntaf, i nod asesiad effaith, ac nid yw'r Gymraeg yn wahanol yn y fan yma. Yr hyn yr ydym yn gofyn amdano, mewn gwirionedd, yw bod y Gymraeg yn cael ei normaleiddio, hynny yw, ei bod yn cael ei thrin yn yr un ffordd ag y mae materion amgylcheddol a chynaliadwyedd yn cael eu trin o ran yr asesiadau hynny.

[245] Yr hyn yr ydym yn disgwyl i asesiad ei wneud yw ystyried y ffeithiau yn y lle cyntaf. A oes effeithiau andwyol ar y Gymraeg? Os oes, dylai'r rheini un ai gael eu hatal neu eu lliniaru. Os oes effeithiau positif, dylent gael eu hamlygu ymhellach. Felly, yn ddelfrydol, dylai'r asesiad ddigwydd yn ddigon buan mewn cais neu gynllun datblygu fel bod cyfle i liniaru wedyn. Ni fydd hynny'n bosibl ym mhob achos, ac os nad yw hynny'n bosibl, yna dylai fod modd wedyn i awdurdodau cynllunio wrthod y cais ar sail yr asesiad effaith.

[246] Yn amlwg, mi fydd angen tystiolaeth benodol iawn i wneud hynny, ond dyna ydy diben cyfundrefn asesu effaith, hyd y gwelaf i.

[247] **Mr Gapper:** I ategu hynny, os caf, yr hyn yr ydym yn gofyn amdano yw i sicrhau y byddai asesiad effaith iaith yn cael ei gynnal ar y cyd ag asesiadau ar yr amgylchedd a chynaliadwyedd. Byddai'r asesiadau yn mynd law yn llaw, a byddech yn cael darlun cyfan o effaith datblygiad ar yr ystyriaethau materol hynny. Felly, ni fyddai'r Gymraeg yn cael ei thrin ar wahân ond fel rhan o'r pecyn.

need specific provision for the Welsh language within it. I accept the point that there are other provisions that are relevant, and that we will need to consider how all those things dovetail. However, we believe that we need specific provision in the area of planning.

Alun Ffred Jones: Do you think that it should be possible to accept or reject a planning application on the basis of its impact on the Welsh language alone—and I emphasise that 'alone'?

Mr Sion: Again, this goes back in the first instance to the objective of an impact assessment, and the Welsh language is no different in this regard. What we are asking for, in essence, is for the Welsh language to be normalised, that is to say that it should be treated in the same way as environmental and sustainability issues are in terms of those impact assessments.

What we expect an assessment to do is to consider the facts in the first place. Are there any detrimental effects on the Welsh language? If so, those should either be prevented or alleviated. If there are positive effects, they should be enhanced. So, ideally, the assessment should happen at an early enough stage in an application or development plan for there to be a chance to alleviate. That will not be possible in all cases, and if not, there should be a means for planning authorities to reject the application on the grounds of that impact assessment.

Clearly, you would need very specific evidence to do that, but that is the purpose of an impact assessment regime, as I see it.

Mr Gapper: To add to that, if I may, what we are asking for is for language impact assessments to be held jointly with environmental and sustainability impact assessments. Those assessments would go hand in hand, and you would get a full picture of the effect of a development on those material considerations. So, the Welsh language would not be treated as something separate, but as part of the package.

[248] **Julie Morgan:** I am struggling with this a bit. Could you give an example to describe where the impact would be on the Welsh language, which would be a part of the impact assessment?

[249] **Mr Sion:** Mae'n anodd inni roi enghraifft benodol ichi heddiw, rwy'n credu. Efallai fod hynny'n rhywbeth y gallwn ei ddarparu i'r pwyllgor maes o law. Yn gyffredinol, er enghraifft, os oes yna ddatblygiad sylweddol o dai mewn ardal lle mae'r Gymraeg yn gryf o fewn y gymuned, byddai rhywun yn disgwyl asesiad effaith o'r datblygiad hwnnw. Mae'n dibynnu wedyn beth yw'r asesiad. Os yw'r asesiad yn dod i'r casgliad bod nifer y tai yn rhy fawr ar gyfer y gymuned, a bod yna risg wedyn y gallai'r datblygiad hwnnw gael *impact* ar ddefnydd y Gymraeg o fewn y gymuned, dyna i chi y math o enghraifft yr ydym yn sôn amdani. Mae'r ffordd yr ydych yn delio â hynny wedyn yn dibynnu ar y cais, o bosibl. Mae sawl cam y gellid eu cymryd: er enghraifft, lleihau maint y datblygiad, sicrhau bod y datblygiad yn cael ei adeiladu dros gyfnod o amser, neu nifer o gamau eraill. Fodd bynnag, dyna'r math o sefyllfa yr ydym yn sôn amdani. Mae'n berthnasol i'r iaith, ac yn berthnasol i'r effaith gymunedol ehangach hefyd, rwy'n credu.

Mr Sion: It is difficult for us to give you a specific example today, I think. Perhaps that is something that we could provide to the committee in the future. Generally speaking, by way of example, if there is a significant housing development proposed in an area where the Welsh language is strong in that community, one would expect an impact assessment of that development. It would then depend on the assessment. If the assessment comes to the conclusion that the number of homes proposed is too large for that particular community, and that there is a risk that the development could have an impact on the Welsh language in that community, that is the kind of example that we are talking about. How you deal with that then depends on the application. A number of steps could be taken, such as reducing the scale of the development, ensuring it is built over a longer time, or several other possible steps. However, that is the kind of situation that we are talking about. It is relevant to the language, but also to the wider impact on the community, I think.

[250] **Jenny Rathbone:** I will just pursue this point. If you had a Japanese or Chinese firm that wanted to establish a manufacturing process in an area where there is a supply of pure water, are you saying that, because it would clearly have an impact on the language spoken, that proposal could be turned down, simply because of the impact on the Welsh language?

[251] **Mr Sion:** Yr hyn yr ydym yn gofyn amdano yw bod yna asesiad yn digwydd o ddatblygiadau. Ar hyn o bryd, nid yw'r asesiadau hyn yn digwydd yn gyson drwy Gymru. Gwnaethom gynnal astudiaeth y llynedd i weld i ba raddau yr oedd y Gymraeg yn cael ei hystyried gan awdurdodau lleol. Y casgliad oedd nad yw'r Gymraeg yn cael ei hystyried yn gyson ar hyn o bryd. Felly, yr hyn yr ydym yn galw amdano yw bod yr asesiadau hyn yn digwydd—ei bod yn ofynnol i asesiadau ddigwydd ar gynlluniau datblygu ac ar geisiadau cynlluniau unigol, pan fo angen. Felly, mewn achos fel hwnnw, mae'n dibynnu beth fyddai canlyniad yr asesiad, beth fyddai'r casgliadau o ran effaith y datblygiad hwnnw ar y gymuned ac ar y Gymraeg, a pha gamau y byddai'n gorfod cael eu cymryd wedyn i ddelio â hynny.

Mr Sion: What we are asking for is for an assessment to take place of developments. At the moment, these assessments do not happen consistently across Wales. We carried out a study last year to see the extent to which the Welsh language was considered by local authorities in these cases. The conclusion was that the Welsh language is not considered consistently at present. So what we are calling for is for these assessments to take place—that it be a requirement for them to take place in terms of development proposals and individual development applications where necessary. So, in those cases, it would depend on the outcome of the impact assessment, what the conclusions were in terms of the impact of that development on the community and on the Welsh language, and what steps would then need to be taken to address those issues.

[252] **Llyr Gruffydd:** Jest i bigo i fyny ar y mater hwn, rhaid inni beidio â meddwl am hyn mewn termau negyddol o hyd. Byddwn yn dychmygu, mewn sefyllfa o'r fath, y byddai hynny'n cryfhau y cais oherwydd y potensial o ddod â swyddi i ardal Gymraeg ei hiaith. Felly, rhaid inni gofio bod yna ffactorau positif yn ogystal â negyddol mewn darpariaethau o'r fath o fewn y Bil.

Llyr Gruffydd: Just to pick up on that, we have to stop thinking about this in negative terms all the time. I would imagine that, in a situation of that kind, it would strengthen the application, because of the potential to bring jobs to Welsh-speaking areas. So, we have to bear in mind the positive aspects, as well as the negative in those kinds of provisions in the Bill.

[253] **Mr Gapper:** Rwy'n meddwl ei fod yn werth nodi'r pwynt hwnnw, sef bod memorandwm esboniadol y Bil yn nodi mai pwrpas y Bil yw darparu system sydd, ymysg pethau eraill, yn darparu ar gyfer hyrwyddo'r Gymraeg.

Mr Gapper: I think it is worth noting that point, namely that the explanatory memorandum to the Bill notes that the purpose of the Bill is to provide a system that, among other things, provides for the promotion of the Welsh language.

[254] **Alun Ffred Jones:** Wel, diolch yn fawr i chi am ddod i mewn i roi eich sylwadau. Rydym yn ddiolchgar iawn, ac mi gewch chi gopi o'r *transcript* er mwyn ichi sicrhau ei fod yn gywir. Byddwn yn defnyddio eich tystiolaeth fel rhan o'n trafodaethau ymhellach ymlaen. Felly, diolch yn fawr i'r ddau ohonoch.

Alun Ffred Jones: Well, thank you very much for coming in to give your comments. We are very grateful, and you will receive a copy of the transcript to check that it is correct. We will use your evidence as part of our deliberations later on. So, thank you very much to you both.

[255] Symudwn ymlaen, felly, i eitem 4.

We will now move on to item 4.

10:59

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 11 Planning (Wales) Bill: Stage 1—Evidence Session 11

[256] **Alun Ffred Jones:** Mae gennym gynrychiolwyr o ddau fudiad, a byddwn yn canolbwyntio ar yr un maes eto, wrth gwrs.

Alun Ffred Jones: We have representatives from two groups, and we will be focusing on the same subject again, of course.

11:00

[257] Just for your information, Dyfodol yr Iaith's representatives have not appeared as yet. So, we will carry on with the Welsh Language Society. We will probably get through it a bit quicker if they do not turn up. [*Laughter.*]

[258] A gaf fi groesawu chi'ch dau i'r sesiwn hon, lle rydym yn trafod y Bil cynllunio? Mae'r ddau ohonoch yn cynrychioli Cymdeithas yr Iaith Gymraeg. Gofynnaf i chi gyflwyno eich hunain gan roi eich enwau a'ch safleoedd. Nid yw'r ddau dyst arall wedi ymddangos hyd yn hyn. Os byddant yn ymddangos, byddwn yn eu derbyn yn llawen ac yn cario ymlaen. Felly, a wnewch chi roi eich enwau a'ch safleoedd?

May I welcome you both to this session where we are discussing the planning Bill? You both represent Cymdeithas yr Iaith Gymraeg. I will just ask you to introduce yourselves by giving your names and your roles. The other two witnesses have not arrived yet. If they do arrive, then we will welcome them with open arms and continue. So, will you give your names and your roles?

[259] **Mr Nosworthy:** Colin Nosworthy ydw i, swyddog cyswllt y Cynulliad ar gyfer Cymdeithas yr Iaith Gymraeg.

Mr Nosworthy: I am Colin Nosworthy, Assembly liaison officer for Cymdeithas yr Iaith Gymraeg.

[260] **Ms Davies:** Tamsin Davies ydw i, cadeirydd grŵp cymunedau cynaliadwy Cymdeithas yr Iaith Gymraeg.

Ms Davies: I am Tamsin Davies, chair of the sustainable communities group for Cymdeithas yr Iaith Gymraeg.

[261] **Alun Ffred Jones:** Siaradwch mor uchel ag y gallwch chi. Rydym yn mynd yn hen ac yn fyddar—rhai ohonom ni. Rwy'n gwybod eich bod chi, Tamsin, wedi gofyn am gael dweud ychydig eiriau ar y dechrau; yn fyr iawn os gwelwch yn dda—dau funud yn unig.

Alun Ffred Jones: Please speak as loudly and as clearly as you can. We are old and hard of hearing—some of us. I know that you, Tamsin, have asked to make a few introductory comments; please keep them as short as possible—two minutes only, please.

[262] **Ms Davies:** Diolch am eich amser. Roeddwn i jest mo'yn dweud ein bod ni fel mudiad yn credu bod y Gymraeg yn perthyn i bob rhan o Gymru ac nid rhannau'n unig. Mae'n etifeddiaeth i bawb sydd yn dewis byw yng Nghymru. Mae hyn yn rhywbeth y mae Llywodraeth Cymru wedi datgan ac sy'n cael ei adlewyrchu yn y statws swyddogol Cymru gyfan a roddwyd i'r Gymraeg yn Mesur y Gymraeg (Cymru) 2011. Ers y 1980au, mae'r gymdeithas wedi bod yn galw am statws i'r Gymraeg o fewn y drefn cynllunio ac rydym yn gweld heriau fel un o fethiannau'r farchnad sydd yn cynnwys diffyg ystyriaeth o'r effaith ar dlodi ac ar yr amgylchedd hefyd.

Ms Davies: Thank you for your time. I just wanted to say that we, as an organisation, believe that the Welsh language belongs to all parts of Wales rather than specific parts of Wales. It is an inheritance for everyone who chooses to live in Wales. This is something that the Welsh Government has also stated and is echoed in the official status accorded to the Welsh language on an all-Wales basis in the Welsh Language (Wales) Measure 2011. Since the 1980s, Cymdeithas yr Iaith Gymraeg has been demanding status for the Welsh language within the planning system and we see challenges as one of the market failures, including a lack of consideration of the impact on poverty and the environment.

[263] Hoffwn i ddiolch i'r Gweinidog, Carl Sargeant, am gydnabod yn ei dystiolaeth i'r pwyllgor hwn fod y Gymraeg yn fater sy'n briodol i'w gynnwys ar wyneb y Bil. Rydym hefyd yn croesawu'r ohebiaeth gan arweinwyr cynghorau sir Cymru a oedd yn cefnogi sefydlu diben statudol i'r Bil, gwneud y Gymraeg yn ystyriaeth faterol neu berthnasol statudol, a hefyd yn galw am gynghorau i benderfynu ar dargedau tai ar sail anghenion lleol yn hytrach nag ar lefel genedlaethol.

I would like to thank the Minister, Carl Sargeant, for recognising in his evidence to the committee that the Welsh language is an issue that could be appropriately included on the face of the Bill. We also welcome the correspondence from council leaders across Wales, who supported providing a statutory purpose within the Bill and making the Welsh language a statutory material or pertinent consideration, and also calling for councils to decide on housing projections based on local needs rather than on a national level.

[264] **Alun Ffred Jones:** Rwy'n mynd i'ch terfynu chi yn y fan honno er mwyn inni gael troi at y cwestiynau, felly rwy'n mynd i ofyn i Russell George ddechrau.

Alun Ffred Jones: I will stop you there so that we can turn to questions and I will ask Russell George to start.

[265] **Russell George:** Good morning. Mr Nosworthy, in your evidence you have said that you are opposed to the centralisation of power and taking power from the hands of elected councillors. Why is that? Surely, there is a mechanism for elected councillors to feed into a

process, as is prescribed in the Bill.

[266] **Mr Nosworthy:** Rydym ni'n credu bod angen rhyw fath o egwyddor bod grym yn aros ar y lefel mwyaf lleol posibl. Yr ydym hefyd yn pryderu yn benodol ynglŷn â sut y mae targedau tai yn cael eu gosod. Mi wnaethon ni gynnal arolwg barn gyda YouGov a oedd yn dangos bod dros 70% o bobl eisiau gweld targedau tai yn cael eu gosod ar lefel leol, a hefyd ar sail anghenion lleol. Yr ydym yn gweld y diffyg grym lleol yn cael effaith ar y Gymraeg. Wrth inni ymgynghori ar ein Bil cynllunio ein hunain, un o'r pethau a oedd yn dod allan o'r cyfarfodydd cyhoeddus hynny oedd bod pobl am gael penderfyniadau yn cael eu gwneud yn lleol. Mae lot o'r darpariaethau yn y Bil hwn yn mynd y ffordd arall, byddwn i'n ei ddadlau, drwy wneud penderfyniadau neu gael dylanwad ar lefel strategol, rhanbarthol.

Mr Nosworthy: We believe that there is a need for some kind of principle that power remains at the most local level possible. We are also concerned specifically about the way that housing targets are set. We conducted an opinion poll with YouGov, which showed that over 70% of people want to see housing targets being set at a local level, and also on the basis of local need. We see this lack of local power as having an effect on the Welsh language. As we consulted on our own planning Bill, one of the things that came out of those public meetings was that people want to see decisions being made locally. A lot of the provisions in this Bill are going in the opposite direction, I would argue, by taking decisions or having an influence on a strategic, regional level.

[267] **Russell George:** How do you describe 'local'? How do you put that definition?

[268] **Mr Nosworthy:** Yn ein Bil ein hunain yr ydym wedi sôn am gynghorau tref a chymuned ar lefel leol, yn ogystal ag awdurdodau lleol, lle bo'n briodol. Yr egwyddor gyffredinol sy'n rhedeg drwy'r dystiolaeth yw bod angen y grym ar y lefel mwyaf lleol posibl. Dyna pam yr ydym wedi bod yn galw am y pethau hynny.

Mr Nosworthy: In our own Bill we have talked about town and community councils on a local level, as well as local authorities, where appropriate. The general principle that runs through the evidence is that there is a need for the power to remain at the most local level possible. That is why we have been calling for those things.

[269] **Russell George:** I can see that, in your evidence, you are suggesting that town and community councils could work together and collaborate to form a plan. Is that not just becoming a local planning authority?

[270] **Mr Nosworthy:** Yr ydym wedi sôn am nifer o opsiynau ynghylch cael grym yn lleol. Un o'r opsiynau, er enghraifft, yw rhoi grym i gynghorau cymuned i alw i mewn penderfyniadau. Rydym hefyd wedi sôn am y grym i wneud penderfyniadau ynglŷn â thargedau tai, oherwydd yr ydym yn gweld patrymau hanesyddol o ran targedau tai: nid ydynt yn adlewyrchu anghenion lleol, ac y mae hynny'n effeithio ar yr iaith hefyd.

Mr Nosworthy: We have talked about several options in terms of having power on a local level. One of the options, for example, is giving power to community councils to call in decisions. We have also talked about the power to make decisions in relation to housing targets, because we see historical patterns emerging in terms of housing targets: they do not reflect local needs, and that also has an effect on the Welsh language.

[271] **Russell George:** So, what are your suggested amendments?

[272] **Mr Nosworthy:** Yr ydym wedi sôn yn benodol mai un ohonynt yw creu'r grym hwn i gynghorau cymuned gael galw i mewn penderfyniadau cynllunio, neu i gael rhyw fath o ddylanwad mwy dros benderfyniadau

Mr Nosworthy: We have said specifically that one of them is to create this power for community councils to call in planning decisions, or to have some sort of greater influence over individual planning decisions.

cynllunio unigol. Un opsiwn arall—ac rwy'n meddwl eu bod nhw wedi dilyn trywydd tebyg yn Lloegr—yw cael y lefel mwyaf lleol yn sefydlu ei awdurdod cynllunio ei hun. Mae nifer o fodelau. Yr hyn sydd yn anodd yng nghyd-destun y Bil yw bod y Bil yn tueddu i fynd i gyfeiriad arall. Felly, mae yna her o ran sut mae rhywun yn cael mwy o rym yng nghyd-destun fframwaith y Bil, fel y mae wedi ei osod allan. Fodd bynnag, yn sicr ynghylch yr effaith ar yr iaith Gymraeg, mae targedau tai a chael y penderfyniadau yn lleol, ar sail anghenion lleol, yn bwysig iawn.

One other option—and I think that they followed a similar route in England—is to have the most local level establishing its own planning authority. There are several models. What is difficult in the context of the Bill is that the Bill tends to go in the opposite direction. So, there is a challenge in terms of how someone has greater power within the context of the framework of the Bill, as it is set out. However, certainly in terms of the impact on the Welsh language, housing targets and having that local decision making on the basis of local need is very important.

[273] **Alun Ffred Jones:** Hoffwn jest nodi eu dyfodiad a chroesawu Emyr Lewis ar ran Dyfodol i'r Iaith, a Meirion Davies o Fentrau Iaith Cymru, sydd hefyd yn cynrychioli Dyfodol i'r Iaith.

Alun Ffred Jones: I would just like to note their arrival and welcome Emyr Lewis from Dyfodol i'r Iaith, and Meirion Davies from Mentrau Iaith Cymru, who also represents Dyfodol i'r Iaith.

[274] Mick, would you like to take this forward?

[275] **Mick Antoniwi:** Yes. I would like to just pursue the point of how this fits in with the future generations Bill in terms of your aspirations. It is an area where we have had some evidence from previous witnesses. Do the future generations Bill and the framework that will be created not actually provide the basis for that? The reason why I put it that way is because, when you talk about local, one could say that there is no such thing as a purely local planning decision; everything has a broader impact. If it is housing, there is no such thing as just a local housing need. That, to some extent, is why we have this broad sustainability thing. Why does the future generations Bill and what is in it not actually satisfy the argument of what you are actually putting forward?

[276] **Alun Ffred Jones:** Rwy'n mynd i ofyn i Emyr Lewis daclo hwn, os yw'n teimlo fel gwneud hynny.

Alun Ffred Jones: I am going to ask Emyr Lewis to tackle this, if he feels willing to do so.

[277] **Mr Lewis:** Yn gyntaf, a gaf i ymddiheuro am nad oeddwn i, rywsut neu'i gilydd, wedi cyrraedd yma mewn pryd? Mae'n ddrwg gennyf. Yn yr ail le, os caf gymryd cam yn ôl—a byddaf yn delio â phwynt Mick Antoniwi—ar hyn o bryd, mae cynllunio, fel y mae Mick Antoniwi wedi'i ddweud, yn rhywbeth sydd yn gweithredu ar lefel leol ac ar lefel ehangach strategol. Diben cyfraith cynllunio yw gosod yn y fantol ar y naill law ryddid tirfeddianwyr a datblygwyr i wneud fel y mynnant, ac ar y llaw arall yr angen i reoli defnydd tir er lles y pethau rydym yn eu hystyried yn bwysig, megis yr amgylchedd, yr economi, a phob math o bethau eraill.

Mr Lewis: First of all, may I apologise for somehow failing to arrive on time? I do apologise for that. Secondly, if I may just take a step back—and I will address Mick Antoniwi's point—at the moment, planning, as Mick Antoniwi has said, is something that operates at a local level and at a broader strategic level. The purpose of planning law is to balance on the one hand the freedom of landholders and developers to do as they choose, and on the other the need to manage land use for the benefit of those things that we feel to be important, such as the environment, the economy, and all sorts of other issues.

[278] Ein pwynt syml ni yw bod angen i'r iaith Gymraeg, a chynaliadwyedd yr iaith

Our simple point is that the Welsh language, and the sustainability of the Welsh language

Gymraeg fel iaith gymunedol, fod yn rhan o'r *mix* hwnnw. Ein pryder ni yw nad yw'r sylfaen gyfreithiol ar hyn o bryd yn ddigon cryf i alluogi hynny i ddigwydd, oherwydd ei bod mewn is-ddeddfwriaeth yn TAN 20—er nid yw hwnnw hyd yn oed yn is-ddeddfwriaeth, ond yn ganllaw—ac mae angen gosod sylfaen gref o fewn deddfwriaeth i alluogi hynny i ddigwydd. Cyfraith cynllunio yw'r lle priodol ar gyfer hynny.

as a community language, need to be part of that mix. Our concern is that the legal foundation at present is not robust enough to allow that to happen, because it is contained within subordinate legislation in TAN 20—it is not even subordinate legislation, actually; it is guidance—and there is a need to have a firm foundation within the legislation to allow that to happen. Planning legislation is the appropriate place for that.

[279] Os gaf i droi at Fil llesiant cenedlaethau'r dyfodol, i roi ei enw cyflawn iddo, nid yw'r Bil hwnnw, â phob parch, yn gosod y sylfaen angenrheidiol ar gyfer cymryd penderfyniadau cynllunio, neu ystyried penderfyniadau cynllunio, ac nid yw'n fframwaith cynllunio digon cryf. Yr hyn mae'n ei wneud yw rhoi lle i'r Gymraeg fel un o nifer o dargedau neu ystyriaethau y mae angen i rai mathau o awdurdodau eu hystyried, o ran sut y maent yn mynd i'w cyrraedd, ond nid yw'n gosod unrhyw fath o le i'r iaith Gymraeg o fewn penderfyniadau cynllunio—o fewn penderfyniadau polisi go iawn. Gosod fframwaith ar gyfer ystyriaethau y mae'n ei wneud.

If I could turn to the wellbeing of future generations Bill, to give it its full title, that Bill, with all due respect, does not actually lay that necessary foundation for taking planning decisions, or considering planning decisions, and it does not create a robust enough planning framework. What it does is to give a locus to the Welsh language as one of many targets or considerations that certain kinds of authorities need to take into account, in terms of how they are going to achieve them, but it does not provide any role for the Welsh language within planning decisions—within real policy decisions. It sets out a framework for considerations and that is all.

[280] **Mick Antoniw:** That is helpful in terms of clarifying the relationship between the two Bills and the planning framework. It has been suggested that what should happen is that the status of the Welsh language, or the impact on the Welsh language, should be a material consideration. Does that not just create just as many problems, because you then have to determine what weight you attach to a material consideration? How would a material consideration actually achieve what I think we would all want to see in respect of the status of the Welsh language in decision making?

[281] **Mr Lewis:** Oni bai bod yr iaith Gymraeg yn y glorian yn y lle cyntaf, ni ellir rhoi unrhyw bwysau arni. Ein pryder ni yw nad yw hi ar hyn o bryd yn y glorian o gwbl. O'i gosod hi yn y glorian, rwy'n cytuno â chi bod cwestiwn wedyn yn codi o ran sut a pha fath o bwysau y mae'n dwyn o fewn unrhyw amgylchiadau lle bo'r penderfyniad yn digwydd. Mae hynny'n rhywbeth y bydd yn gorfod cael ei wneud, fel y mae ystyriaethau sylweddol eraill yn cael eu trin o fewn unrhyw gyd-destun cais cynllunio, megis ystyriaethau yn ymwneud â bioamrywiaeth, cadw etifeddiaeth adeiledig, neu rywbeth felly. Fodd bynnag, ar hyn o bryd, nid oes gan hyfywedd y Gymraeg y fath honno o le o fewn cynllunio. Gall eraill siarad ynglŷn â'r effaith andwyol y mae hynny wedi'i gael ar y

Mr Lewis: Unless the Welsh language is one of those issues that is in the balance or in the mix in the first place, then no weighting can be given to it. Our concern is that it is not in the mix at all. In placing it in the mix, I agree with you that there is a question in terms of how and what sort of weighting it should have within any circumstances where decisions are taken. That is something that will have to be done, as other important considerations are dealt with within the context of any planning application, such as considerations related to biodiversity, retaining our built heritage, or issues such as those. However, at the moment, the viability of the Welsh language does not have that locus within planning. Others can cover the detrimental effect that that has had on the

Gymraeg.

Welsh language.

[282] **Alun Ffred Jones:** Cyn bod unrhyw un arall yn dweud rhywbeth—

Alun Ffred Jones: Before anybody else says anything—

[283] Jeff, did you want to come in, on this point presumably?

[284] **Jeff Cuthbert:** Yes, it is linked to this. I know this session is not to scrutinise the wellbeing of future generations Bill, nevertheless, if that comes to pass, subject to any amendments, it will place a duty on all public bodies, including planning authorities, of course, to ensure a thriving Welsh language as part of one of the goals. So, are you saying that the planning Bill needs to be amended and strengthened to make the practicalities around that more real?

[285] **Mr Lewis:** Mae hynny'n ffordd dwt o'i roi, o'n safbwynt ni.

Mr Lewis: That is a very succinct way of putting it, in our view.

[286] **Mr Nosworthy:** Rwy'n cytuno nad yw cynnwys y Gymraeg yn y Bil llesiant yn gyfystyr â chreu cyfundrefn sy'n galluogi pobl i wneud asesiad effaith iaith ac nid yw yn rhoi statws mater perthnasol i'r Gymraeg o fewn y Bil.

Mr Nosworthy: I agree that including the Welsh language in the FG Bill is not equivalent to making provision that enables people to undertake a language impact assessment and it does not give the Welsh language material consideration status within the Bill.

11:15

[287] Os gallaf ddod yn ôl at bwynt Mick ynglŷn â beth fyddai effaith gwneud y Gymraeg yn un o'r materion perthnasol statudol o fewn y system, sef ei wneud yn *material consideration*, ar hyn o bryd, yr hyn y mae pobl yn ei ddweud ar lawr gwlad ydy fod yna ddiffyg eglurder o ran a allan nhw ystyried y Gymraeg o gwbl. Er enghraifft, yn achos Land and Lakes yn Ynys Môn—. Nid yw swyddogion yn gallu rhoi'r cyngor, 'Mae hwn yn ffactor y gellir ei ystyried ym mhob achos.' Felly, mae'n bendant bod aneglurder ar lawr gwlad ynglŷn â beth yw statws y Gymraeg, ac mae'n dod yn ôl at y pwynt nad yw TAN 20 yn rhoi'r eglurder hwnnw, felly mae angen rhywbeth ar wyneb y Bil sy'n gwneud hynny. Yn achos Land and Lakes, roedd y cynghorwyr yn ofni apêl gan y cwmni ac nid oedd cefnogaeth o fewn y gyfundrefn statudol i'w galluogi nhw i wneud y penderfyniad democrataidd yr oedden nhw am ei wneud.

If I can respond to the point that Mick made about the effect of making the Welsh language, one of the statutory material considerations within the Bill, at present, what people are saying at a grass-roots level is that there is a lack of clarity as to whether they can consider the Welsh language at all. For example, in the case of Land and Lakes on Anglesey—. Officials cannot give the advice, 'This is a factor that can be considered in every case.' So, there is definitely a lack of clarity at a grass-roots level about the status of the Welsh language, and it comes back to the point that TAN 20 does not give that clarity, so there needs to be something on the face of the Bill that does that. In the case of Land and Lakes, the councillors were concerned about an appeal from the company and there was no support within these statutory arrangements to enable them to make the democratic decision that they wanted to make.

[288] **Alun Ffred Jones:** Meirion, a wyt ti eisiau dod i mewn yn y fan hon? Nid oes angen i ti bwysu dim byd.

Alun Ffred Jones: Meirion, do you want to come in here? You do not need to press any buttons.

[289] **Mr Davies:** A ydy o'n iawn rŵan?

Mr Davies: Is it working? Just to endorse

Rwyf i jest eisiau adleisio drwy ddweud fy mod i yma i gynrychioli'r mentrau iaith sydd â phresenoldeb ar lawr gwlad ar draws Cymru. Mae esiamplau di-ri o hyn yn digwydd. Rwy'n meddwl mai un o'r rhai gorau—i ddefnyddio'r gair hwnnw—ydy'r hyn ddigwyddodd yn sir Gaerfyrddin ym Mhenybanc. Flwyddyn neu ddwy yn ôl, roedd yr hen fwrdd iaith wedi adnabod yr ardal fel ardal o sensitifrwydd ieithyddol, lle mae yna ddirywiad wedi bod, a daeth adnoddau drwy'r Llywodraeth i drio gwrthdroi hynny. Fodd bynnag, daeth cais cynllunio drwodd i bentref o'r enw Penybanc sydd, yn y bôn, yn mynd i ddyblu maint y pentref hwnnw, lle mae'r Gymraeg yn iaith gymunedol. Felly, yr hyn sydd gennych chi yn y fan honno, mewn ffordd, ydy dau faes polisi gwahanol ac mae'r polisi cynllunio yn tanseilio'r polisi am y Gymraeg. Gwnaeth y cyngor sir ei wrthod i ddechrau, ond pan aeth i apêl, roedd arno ofn mynd â fo i apêl oherwydd nad oedd y cynsail statudol yno.

[290] **Alun Ffred Jones:** Llyr, a wyt ti am ddod i mewn?

[291] **Llyr Gruffydd:** Rydych chi wedi cyffwrdd â'r ardaloedd o sensitifrwydd ieithyddol, ac roeddwn i'n nodi yn nhystiolaeth Dyfodol i'r Iaith y cysyniad hwn o greu ardaloedd penodol lle mae'r sensitifrwydd yn fwy pwysig nag mewn rhannau eraill, ac roeddwn i jest eisiau holi ychydig ynglŷn â hynny. Yn y dystiolaeth rwyf i'n ei chlywed, rwy'n clywed rhai pobl yn dweud bod eisiau polisi cyson ar draws Cymru ac na allwch chi wahaniaethu, ond eto rwy'n clywed hefyd enghreifftiau o le allech chi greu un polisi ar gyfer rhai rhannau o'r wlad.

[292] **Mr Davies:** Rwy'n meddwl ei fod yn mynd i fod yn ddibynnol ar le ydych chi. Mae eisiau rhyw fath o waelodlin, drwy statud, ar draws y wlad, a wedyn ei gymryd o'r fan honno, sef yr union beth sydd yn digwydd efo ardaloedd o harddwch naturiol neu barciau cenedlaethol, lle mae gennych chi ryw fath o gynsail neu waelodlin ac rydych chi'n adeiladu o'r fan honno wedyn.

[293] **Mr Nosworthy:** Ni wnaethom ni gynnig y syniad—[*Anhyglyw.*] Mae angen

those points, I am here to represent the *mentrau iaith*, which have a grass-roots presence across Wales. There are numerous examples of this happening. I think that one of the best examples—If I could use that word—is what has happened in Penybanc in Carmarthenshire. A year or two ago, the former language board had identified the area as an area of linguistic sensitivity, where there had been a decline in the number of Welsh speakers, and resources were provided through the Government to try to counteract that. However, a planning application came through for the village of Penybanc, which would, in effect, double the size of that village, where the Welsh language is currently the community language. So, what you have there, in a way, is two different policy areas, whereby the planning policy undermines the Welsh language policy. The county council rejected it initially, but, when it came to appeal, it feared taking it to appeal, because the statutory precedent was not in place for it to do that.

Alun Ffred Jones: Llyr, do you want to come in?

Llyr Gruffydd: You have touched on areas of linguistic sensitivity, and I noted in the evidence of Dyfodol i'r Iaith this concept of creating specific areas where the sensitivity is of greater importance than in some other areas, and I wanted to ask about that a little. In the evidence that I am hearing, I hear some people saying that there is a need for a consistent policy across Wales and that you cannot differentiate, but, again, I hear examples of where you could create one policy for some parts of the country.

Mr Davies: I think that it is going to be dependent on the local circumstances. We need some sort of baseline, on a statutory basis, at a national level, and then we need to move on from there, as is the case with areas of outstanding natural beauty or national parks, where you have some kind of foundation or baseline and you build up from that position.

Mr Nosworthy: We did not propose the idea—[*Inaudible.*]. There is a need to go

mynd yn ôl at wneud y Gymraeg yn fater perthnasol statudol o fewn y system. Mae angen hynny ar draws Cymru—bod y Gymraeg yn cael ei hystyried—ond hefyd, ar ben hynny, os ydych chi'n edrych ar asesiad amgylcheddol a sut mae hwnnw'n cael ei redeg, mae prawf sgrinio, onid oes? Hynny yw, drwy ofyn, 'A ydy'r datblygiad hwn yn debygol o gael effaith?', sef ar yr amgylchedd yn yr achos hwnnw. Fodd bynnag, nid yw cael polisi cenedlaethol a statudol ar draws Cymru yn golygu bod yr un polisi yn cael ei weithredu ar draws Cymru. Felly, mae modd galluogi cynghorwyr i ystyried y mater ym mha ffordd bynnag sy'n briodol iddyn nhw ond hefyd i gael hyblygrwydd. Nid wyf yn meddwl bod tensiwn o reidrwydd o fewn y statud yn hynny o beth.

[294] **Alun Ffred Jones:** Un o'r sylwadau sydd wedi dod drwodd o ochr cyrff cyfreithiol yw awgrym y byddai gwneud hyn, rywsut neu'i gilydd, yn torri ar draws deddfau rhyngwladol a hawliau dynol, ac, yn sicr mewn ceisiadau cynllunio, ni chewch chi wahaniaethu ar sail hil neu bwy sydd yn byw mewn adeilad. Onid ydych yn credu bod y pwynt hwnnw yn un teg ac felly y byddai gosod y Gymraeg o fewn y gyfundrefn hon yn peryglu neu yn torri, efallai, rhai o'r Deddfau rhyngwladol hyn?

[295] **Mr Lewis:** A ydych yn cyfeirio at dystiolaeth Cymdeithas y Cyfreithwyr?

[296] **Alun Ffred Jones:** Ydw.

[297] **Mr Lewis:** Wel, mae'n anodd gwybod beth yw'r sail honno. Credaf efallai ei fod yn ymwneud â chamddealltwriaeth o'r hyn y mae pobl yn gofyn amdano. Fel mater o gyfraith, ni all Cynulliad Cenedlaethol Cymru basio Deddf sy'n groes i hawliau dynol o dan gonfensiwn Ewropeaidd. Fel mater o gyfraith, ni all awdurdodau cynllunio lleol wahaniaethu, fel yr ydych wedi ei ddweud, ar sail hil nag ychwaith weithredu'n groes i'r hawliau o dan y confensiwn. Nid yw hynny'n golygu nad oes fframwaith sy'n ymwneud â diogelu ieithoedd lleiafrifol yn gallu bodoli sy'n gydnaws â hynny. A dweud y gwir, nid oes neb yn awgrymu, hyd y gwn i beth bynnag, y dylai'r gyfundrefn hon weithio mewn ffordd sydd, er enghraifft, yn

back to ensuring that the Welsh language is a statutory material consideration within the system. That needs to happen across Wales—that the Welsh language is considered—but, on top of that, if you look at environmental impact assessments and how that arrangement is run, there is a screening test, almost. The question is asked, 'Is this development likely to have an impact?', which is an impact on the environment in that case. However, having a national and statutory policy across Wales is not the same as ensuring that the same policy is enacted across Wales. So, there is a means of ensuring that councillors consider the matter in the most appropriate manner for them and then having flexibility. I do not think that there is necessarily a tension within the statute in that regard.

Alun Ffred Jones: One of the comments that has been made by bodies representing lawyers is that there is a suggestion that doing this would, to some extent, contravene international law and human rights, and, certainly in planning applications, you cannot differentiate on the basis of race or who is to live in a particular building. Do you not think that that point is a valid one and that placing the Welsh language within this regime would jeopardise or, actually, contravene some of those international Acts?

Mr Lewis: Are you referring here to the Law Society's evidence?

Alun Ffred Jones: Yes.

Mr Lewis: Well, it is difficult to know the basis for those comments. I think that it relates to a misunderstanding of what people are asking for. As a matter of law, the National Assembly for Wales cannot pass an Act that is contrary to human rights under European law. As a matter of law, local planning departments cannot discriminate on the basis of race or act in a way that is contrary to rights within the convention. That is not to say that there is no framework in place in terms of protecting minority languages that could exist and could run in accordance with that. Nobody is suggesting, as far as I know at least, that this regime should work in a way that, for example, says that it is only if you speak Welsh that you can

dweud, ‘Wel, dim ond os wyt yn siarad Cymraeg y cei di godi tŷ yn fan hyn’. Nid wyf yn credu bod neb yn awgrymu hynny. Efallai fod yna ryw gamddealltwriaeth sydd yn seiliedig, efallai, ar ddiffyg dealltwriaeth o’r sefyllfa, sydd yn meddwl mai dyna y mae pobl yn gofyn amdano ac mai o rywle yn y fan honno y mae’r peth wedi deillio. Y cwbl y byddwn i’n ei ddweud yw ei bod yn gyfan gwbl gydnaws â chyfraith ryngwladol o dan y siarter Ewropeaidd dros ieithoedd lleiafrifol a rhanbarthol i ddeddfu mewn ffyrdd sy’n hwyluso cynnal ieithoedd lleiafrifol.

[298] **Mr Nosworthy:** A gaf i ategu’r ateb hwnnw? Rydym wedi bod yn llunio Bil a chynigion ein hunain, ac rwy’n synnu i glywed y cwestiwn, oherwydd nid yw’n gwestiwn sydd wedi codi wrth inni siarad â chyfreithwyr ynglŷn â’n cynigion ni. Rwy’n nodi bod tystiolaeth Cymdeithas y Cyfreithwyr yn dweud nad oes barn sefydlog gan y gymdeithas ar y mater. Rwy’n meddwl ei bod yn bosibl llunio nifer o senarios nad ydynt yn ffordd briodol o ddefnyddio’r pwerau, ond gellid llunio senario lle y byddai ystyried yr amgylchedd yn gallu bod yn rhyw fath o ystyriaeth amhriodol, ond nid wyf yn meddwl bod hynny’n ddadl ynghylch gwneud y Gymraeg yn ystyriaeth berthnasol. Hefyd, rwy’n meddwl bod y Ddeddf Lleoliaeth 2011 yn Lloegr wedi ychwanegu un peth yn ddiweddar at yr ystyriaethau perthnasol o fewn cyfundrefn Lloegr. Felly, o ran gwneud y Gymraeg yn ystyriaeth berthnasol ar draws Cymru gyfan, nid wyf yn meddwl ei fod yn gwestiwn sydd wedi ei godi gan gyfreithwyr ynghylch ein cynigion ni.

[299] **Alun Ffred Jones:** Mick, is your question on this point?

[300] **Mick Antoniw:** Yes. This is perhaps the complication over this—the confusion that people have over what the term ‘material consideration’ actually means. I appreciate your views, and following on from the comments that Meirion made, for example, a material consideration in the example that you gave might be that you would say, in the short term, the impact on a Welsh-speaking village would be detrimental but, in the long term, it would be sustainable and, as long as you had Welsh-medium provision, you would be creating a generation of children who will be Welsh speaking and make the whole area—. So, generationally, it might be beneficial, although there would be an immediate impact. However, of course, as a material consideration, there is considerable scope to be taking decisions either way. I suppose what you are suggesting is the impression it creates, which is that it is somehow being seen as a veto of an issue rather than as a factor that has to go into the pot of all the other factors that are considered.

build a house in such and such a place. Nobody is suggesting that. However, I do think that, perhaps, there is some misunderstanding out there that is, perhaps, based on a lack of understanding of the situation as it currently stands, which actually comes to the conclusion that that is what people are seeking. I think that is where it might have emerged from. All I would say is that it is entirely in keeping with international law under the European charter for minority and regional languages to legislate in ways that facilitate the sustainability of minority languages.

Mr Nosworthy: May I add to that answer? We have been putting together our own Bill and our own proposals, and it surprises me to see the question, because it is not a question that has arisen as we have spoken to lawyers about our proposals. I note that the evidence from the Law Society states that it does not have a set opinion on this matter. I think that it is possible to look at several scenarios that would not provide an appropriate method of using these powers, but you could look at a scenario where considering the environment could be an inappropriate consideration, but I do not think that that is an argument in terms of making the Welsh language a material consideration. I also think that the Localism Act 2011 in England has added one thing recently to the material considerations within the regime in England. So, in terms of making the Welsh language a material consideration across the whole of Wales, I do not think that it is a question that has arisen from the lawyers with whom we have spoken about our proposals.

[301] **Alun Ffred Jones:** Pwy sydd am ymateb i hynny? Gwelaf fod Emyr am wneud.

Alun Ffred Jones: Who would like to respond to that? I see that Emyr will take that one.

[302] **Mr Lewis:** Mae hwn yn bwynt arall a godwyd gan Gymdeithas y Cyfreithwyr, fel rhyw is-bwynt. Rwy'n cytuno bod camddealltwriaeth wedi bod yn sicr—bod y rheini sy'n gofyn am rywbeth i ddiwydd mewn perthynas â'r iaith yn y Bil hwn yn gofyn i'r iaith fod yn drosgynnol uwchben pob dim arall. Nid wyf yn ymwybodol bod hynny'n ofyniad gan neb.

Mr Lewis: This is another point that was raised by the Law Society, as a kind of sub-clause. I agree that there has been a misunderstanding—that those who are asking for something to happen in relation to the language in this Bill are asking for the Welsh language to override any other issues, and I do not think that anyone is actually making that request.

[303] **Mr Nosworthy:** O ran y pwysau y mae rhywun yn ei roi ar hynny, rwy'n meddwl bod Bil Llesiant Cenedlaethau'r Dyfodol (Cymru) yn gosod rhyw fath o gyswll yn y ffordd y mae'n sôn am roi gwerthoedd sy'n bwysig i Gymru. Mae pwynt Cymdeithas y Cyfreithwyr yn anodd ei ddeall, ond pwynt gwleidyddol ydyw ynglŷn â lle mae'r cydbwysedd yn cael ei wneud. Mewn ffordd, mae Bil Llesiant Cenedlaethau'r Dyfodol (Cymru) yn gwleidyddol yn dweud, 'Dyma rai o'r nodau llesiant y mae Cymru yn eu gwerthfawrogi'. Felly, nid wyf cweit yn glir am y pwynt ynglŷn â'r pwysau y mae rhywun yn ei roi ar unrhyw ffactor.

Mr Nosworthy: In terms of the weighting that people put on that, I think that the Well-being of Future Generations (Wales) Bill has set some sort of precedent in the way that it talks about some values that are important to Wales. The point that the Law Society is making is difficult to understand, but it is a political point about striking that balance. In a way, the Well-being of Future Generations (Wales) Bill politically states, 'These are the wellbeing goals that Wales appreciates'. So, I am not entirely clear about the weighting being attached to any specific factor.

[304] **Alun Ffred Jones:** William Powell, did you want to come in?

[305] **William Powell:** I was very interested in Meirion's point about the Penybank example; it is perhaps not a coincidence that one of the eight signatories to the letter that was brought to my attention by Cymdeithas yr Iaith is Councillor Kevin Madge, the Labour leader of Carmarthenshire County Council, because clearly this is an issue in large sections of that local authority. Just to take the point a little further, could this consideration of Welsh language needs also be looked at in terms not just of accepting or rejecting an application, but of informing the conditioning that comes forward in terms of potential community benefit? I know that, with a completely different hat on, the *mentrau iaith* have brought a petition to the National Assembly on its future arrangements in terms of resourcing its work properly. Could that also not be a factor that could be built into the conditioning of an appropriate scale development?

[306] **Mr Davies:** Yn hollol. Yn sylfaenol, nid yw iaith yn bodoli ar ei phen ei hun. Y cyfan yw iaith heb y gymuned yw geiriadur. Rydym yn sôn am bobl a chymuned, felly nid ydych yn medru ystyried y Gymraeg ar ei phen ei hun; mae'n rhaid i chi ystyried y cyfanwaith. Byddwn i'n hoffi gweld system sydd yn mynd i allu cynllunio yn adeiladol dros y Gymraeg, lle rydych chi yn cynllunio

Mr Davies: Exactly. Fundamentally, language does not exist in a vacuum. All language is without a community is a dictionary. We are talking about people and a community, therefore the Welsh language cannot be considered in isolation; you have to look at the bigger picture. What I would like to see is a system that can plan constructively for the Welsh language, whereby you are

bod unedau gwaith yn dod i'r pentref gwledig oherwydd ei fod yn mynd i sicrhau nad oes allfudiad parhaus o bobl ifanc, ac yn y blaen—rhywbeth sy'n hwyluso datblygu economaidd o dan rai amodau. Felly, yn union. Nid ydym yn sôn am fod yn hollol amddiffynnol drwy'r amser; mae eisiau bod yn ddychmygus ac uchelgeisiol. I ddod yn ôl i'r *issue* sylfaenol, nid yw'r iaith ar ei phen ei hun; nid jest un ffactor ydyw.

planning that employment units are being established in rural areas so that there is no continual outward migration of young people, and so on—something that facilitates economic development in certain circumstances. We are not talking about being entirely defensive all the time; we need to be imaginative and ambitious. To come back to that fundamental issue, language does not exist in a vacuum; it is not just a single factor.

[307] Byddwn i'n hoffi pwysleisio, i gymryd cam yn ôl, nad ydym yn sôn fan hyn am wrthod ceisiadau cynllunio ar sail un unigolyn sydd am adeiladu tŷ. Yr hyn rydym yn sôn amdano yw natur ieithyddol ardal, yn yr un ffordd ag y byddai natur amgylcheddol ardal, yn newid dros nos oherwydd datblygiad tai. Dyna beth sydd yn ein poeni ni fan hyn. Mae gen i lythyr yma wedi ei arwyddo gan gadeirydd pob menter iaith yn gofyn am y newid hwn o fewn y Bil, oherwydd medrwn fod yn gweithio ar lawr gwlad am flynyddoedd a gweld cynnydd a, dros nos, gallai'r cynnydd hwnnw ddiflannu oherwydd datblygiad amhriodol. Fodd bynnag, efo datblygiadau priodol sydd yn cymryd hyn i ystyriaeth, mae'n gallu cryfhau'r Gymraeg.

I would like to emphasise, to take a step back, that we are not talking here about rejecting planning applications on the basis of a single individual who wants to build a house. What we are talking about is the linguistic character of an area changing overnight because of a housing development, in exactly the same way as the environmental character of an area would do. That is what concerns us here. I have a letter here signed by the chair of each *menter iaith* requesting this change within the Bill, because we could have been working at grass-roots levels for years and seeing progress, only to see that progress destroyed overnight because of an inappropriate development. However, with appropriate development that takes this into account, it can strengthen the Welsh language.

[308] **Alun Ffred Jones:** Jenny, do you want to come in?

[309] **Jenny Rathbone:** I was just wondering how much the Welsh language is being used as a stalking horse for anxieties about development in areas where there is pressure from tourism. If you have an area that is very popular for tourism, such as the Land and Lakes development, presumably, clearly local people cannot afford the prices that are being charged on people who are coming in from elsewhere for second homes. How much do you think the Welsh language anxieties are being used as a proxy for anxieties about the ability of local people to be able to afford homes?

[310] **Mr Davies:** Mae hyn yn broblem mewn ardaloedd yn Lloegr hefyd, ond yr hyn sydd gennym yn ychwanegol yng Nghymru yw ei bod yn cael sgîl-ffaith ar y Gymraeg. Felly, mae'n rhywbeth y mae'n rhaid i ni fod yn sensitif amdano o ran y ffordd y mae twristiaeth yn cael ei datblygu, fel ei bod yn cael ei wneud er budd y gymuned leol ac nad yw'n tanseilio'r gymuned honno.

Mr Davies: This is a problem in parts of England too, but an additional factor in Wales is its impact on the Welsh language. Therefore, it is something that we must be sensitive to in terms of the way in which tourism is developed, so that it is done for the benefit of the local community and does not undermine that community.

11:30

[311] **Mr Nosworthy:** Jest ar y pwynt am **Mr Nosworthy:** Just on the point about

dai fforddiadwy, rwy'n derbyn y pwynt am dwristiaeth, ond mae yna *issue* am ba mor fforddiadwy y mae'r tai. Un o'n cynigion ni yw sicrhau ein bod yn troi ar ei ben y system bresennol, lle mae angen cael canran bach iawn o dai sy'n fforddiadwy i bobl leol, a chael system lle mae mwyafrif y tai yn fforddiadwy i bobl leol. Mae hyn nid yn unig yn cael effaith ar y Gymraeg, ond yn cael effaith hefyd ar dlodi, ar yr amgylchedd, ac yn y blaen. Mae'n wirion bod gennym system lle mae'n iawn i gael ond 10% i 15% o dai sy'n fforddiadwy. Dylai hynny fod y ffordd arall rownd, oni ddylai? Dylai fod y rhan fwyaf o dai yn fforddiadwy i bobl leol, yn hytrach na lleiafrif bach ohonynt. Mae hynny'n cael effaith ar yr iaith. Os nad yw pobl yn gallu fforddio byw—. Os yw ystadau tai yn cael eu hadeiladu nad ydynt yn fforddiadwy i bobl leol, mae hynny'n hybu allfudo ac yn cael effaith andwyol ar gynaliadwyedd cymunedau yn ieithyddol ac mewn nifer o ffyrdd eraill.

affordable homes, I accept that point about tourism, but there is an issue about how affordable the houses are. One of our proposals is to ensure that we overturn the current system, where there needs to be a very small percentage of homes that are affordable to local people, and have a system where the majority of homes are affordable. This not only has an effect on the Welsh language, but also has an effect on poverty, the environment, and so on. It is counterintuitive that we have a system where it is correct to have just 10% to 15% of homes that are affordable. It should be the other way around, should it not? We should have a system where the majority of homes are affordable to local people, rather than a very small minority. That has an effect on the language. If people cannot afford to live in an area—. If housing estates are built that are not affordable to local people, it promotes outward migration and has a detrimental effect on communities in terms of the language and in other ways.

[312] **Nick Ramsay:** Things have moved on a bit since the point—. Mick Antoniwi made the point about the material consideration, and I can see both sides of this. However, is not the point that the Law Society has made that this is a very difficult balance to get right, and, if you are not going to get that balance right, it is probably best to leave it to the guidance, or enhance the guidance in some way? I accept what you say about the guidance not being strong enough, but this is a tricky balance, is it not?

[313] **Mr Lewis:** Fel y mae Colin eisoes wedi'i ddweud, nid yw'n gwbl eglur beth yw barn Cymdeithas y Cyfreithwyr. Mae'r gymdeithas yn dweud ei bod yn agnostig. Mae'r hyn y mae'n ei ddweud am y Gymraeg fel ystyriaeth sylweddol yn awgrymu ei bod o dan yr argraff bod pobl am osod y Gymraeg uwchben ystyriaethau eraill. Nid dyna'r gwirionedd. Mae unrhyw benderfyniad cynllunio yn mynd i fod yn rhywbeth cymhleth. Mae mwy na dwy ochr i'r peth. Mae nifer fawr iawn o ystyriaethau i'w gwneud.

Mr Lewis: As Colin has already said, it is not entirely clear what the view of the Law Society is. It says that it is agnostic. What it says about the Welsh language as a material consideration suggests that it is under the impression that people want to place the Welsh language over and above all other considerations. That is not the case. Any planning decision is going to be complex. There are more than two sides to each and every argument in this area. There are many material considerations that need to be taken into account.

[314] **Nick Ramsay:** However, it could be interpreted as being an overriding factor in some situations. Is that not the point that the Law Society was making?

[315] **Mr Lewis:** Nid yw'n eglur ai dyna ydyw. Mewn rhai amgylchiadau, mi allai fod, yn sicr, oherwydd mae'n rhaid ichi ystyried yr holl ystyriaethau y mae'n rhaid ichi eu hystyried. Byddwch yn pwysu a mesur ac efallai'n dweud, 'Rydym yn ystyried, o dan

Mr Lewis: It is not clear to me as to whether that is the point that it is making. In certain circumstances, it could be, certainly, because you have to consider all considerations that need to be taken into account. You would place those in the balance, and you may say,

yr amgylchiadau hyn, bod yna berygl o'r math y mae Meirion wedi'i ddisgrifio i hyfywedd yr iaith o fewn y gymuned honno.' Byddech wedyn efallai'n edrych ar y math o beth yr oedd William Powell wedi'i awgrymu—pa fesurau lliniaru, ac ati, y byddech yn eu cymryd yn yr amgylchiadau hynny. Byddech yn pwysu'r rheiny o ran eu heffaith ar y Gymraeg, effeithiau ar yr amgylchiadau, effeithiau eraill economaidd, a'r cysyniad, 'Wel rydym eisiau gweld datblygiadau tai yn y lle hwn, beth bynnag, felly mae yna alw.' Mae'r holl bethau hyn yn y fantol. Ar hyn o bryd, y broblem yw bod lle'r Gymraeg yn yr hafaliad hwnnw yn fregus iawn. Fel y dywedodd Colin, mae swyddogion cynllunio yn nerfus i gynghori cynghorwyr i ddod â'r Gymraeg i mewn fel ystyriaeth o gwbl. Os ydych yn derbyn yr egwyddor ein bod yn dymuno cynnal yr iaith Gymraeg fel iaith hyfyw o fewn cymunedau, mae peidio â chaniatáu lle i'r iaith Gymraeg o fewn y gyfundrefn polisi sy'n ei gosod yn y fantol yn yr un modd ag ystyriaethau eraill yn mynd i fynd yn groes i'r dyhead polisi hwnnw. Dyna, yn syml, yw ein pwynt ni. Nid yw'n mynd i fod yn hawdd. Nid oes unrhyw un yn smalio ei fod yn mynd i fod yn hawdd gwneud y penderfyniadau hyn. Fodd bynnag, pan fyddwch yn gweld rhai enghreifftiau, megis Penybanc, byddwch yn gweld y byddai wedi bod yn hawdd yn yr enghraifft honno.

'We do believe, in these certain circumstances, that there is a risk of the type that Meirion outlined to the viability of the language within that community.' You would then look at the kind of thing that William Powell suggested—what alleviation steps you could take in those circumstances. You would balance those in terms of the impact on the Welsh language, impacts on the environment and other economic impacts, and also the concept of, 'Well, we want to see housing developments in this area, in any case, therefore there is a demand.' You would place all of those things in the balance. At present the problem is that the locus of the Welsh language within that equation is very fragile indeed. As Colin has said, planning officers are very nervous in advising councillors to bring the Welsh language in as any sort of consideration. If you accept the principle that we want to maintain the Welsh language as a viable language within communities, failing to allow the Welsh language a role within the policy regime that would place it in the balance in the same way that other considerations are placed in the balance would be contrary to that policy aspiration. That is, quite simply, our point. It is not going to be easy. No-one is pretending that it is going to be easily done. However, on occasion, when you see examples such as Penybanc, you see that it would have been easy in that particular example.

[316] **Alun Ffred Jones:** Mae'r cwestiwn olaf gan Jenny Rathbone.

Alun Ffred Jones: The final question is from Jenny Rathbone.

[317] **Jenny Rathbone:** Going back to Colin Nosworthy's point, if you want affordability to be one of the issues for local communities, avoiding the Law Society's anxieties, would you instead be seeking something in the regulations around housing that would restrict it to local people in areas where there is huge pressure from second homeowners, similar to the Lake District.

[318] **Ms Davies:** Un o'r pethau yr ydym wedi dweud yn ein Bil amgen ni yw, er enghraifft, dylai pobl leol yn cael y cyfle cyntaf i brynu tai. Nid yw hynny'n golygu nad yw unrhyw un arall yn gallu gwneud, ond bod pobl leol yn cael y cynnig cyntaf i brynu. Byddai hynny'n helpu i ryw raddau.

Ms Davies: One of the things that we have stated in our alternative Bill is, for example, that local people should have the first opportunity to purchase homes. That does not mean that nobody else can buy them, but that local people should have the first opportunity to purchase them. That might help, to some extent.

[319] **Alun Ffred Jones:** Mae hynny yn eich Bil chi, ond nid yw ym Mil y Llywodraeth.

Alun Ffred Jones: That is contained within your Bill, but it is not in the Government's Bill.

[320] **Ms Davies:** Na, nid oeddwn yn meddwl am Fil y Llywodraeth. Roeddwn i jest yn dweud ein bod wedi llunio Bil amgen a dyna un o'r pethau yr ydym wedi awgrymu, felly dyna rhywbeth yr ydym wedi awgrymu fel gwelliant i Fil y Llywodraeth.

Ms Davies: No, it is not in the Government Bill. I was just stating that we have put together an alternative Bill and that is one of the suggestions that we have made, and so something that we have suggested as an amendment to the Government Bill.

[321] **Alun Ffred Jones:** Yn anffodus, mae amser wedi ein trechu ni, ond, cyn eich bod yn gadael, os ydych yn dymuno gwneud—. Hynny yw, rwy'n cymryd mai eich apêl chi yw bod y Gymraeg yn cael ei chynnwys ar wyneb y Bil, fel sail i benderfyniadau neu asesiadau maes o law o ran y drefn gynllunio. Dyna'ch apêl chi. Fe gewch fy nghywiro i, neu egluro'n well.

Alun Ffred Jones: Unfortunately, time has defeated us, but, before you leave, if you wish to make—. That is, I take it that your appeal is for the Welsh language to be included on the face of the Bill, as a basis for decisions or assessments in due course in terms of the planning system. That is what you are asking for. You can correct me, or further explain.

[322] **Mr Davies:** Na, yn union. I ddod yn ôl yn gyflym i'r pwynt a wnaeth Nick Ramsay, mae perygl go iawn o beidio â gwneud hynny, felly. Mae goblygiadau i gymunedau lle mae'r Gymraeg dal yn iaith mwyafrifol, ond mae'n rhaid inni ystyried pa mor bell mae cynllunio amgylcheddol wedi dod yn y 50 mlynedd diwethaf. Mae'n faes astrus ond mae'n gyfle inni ddatblygu arbenigedd ynddo. Petai'n mynd ar statud, mae hynny'n mynd i'w orfodi i ddigwydd, mewn ffordd. Mae'n faes newydd. Rwyf wedi bod mewn pwyllgorau tebyg ac rwy'n meddwl fy mod yn gwybod sut mae'r *climatologist* yn teimlo yn dadlau efo bwrdd cyfarwyddwyr Esso, er enghraifft, o ran cynhesu byd eang: efallai nad yw'r cyswllt yn hollol amlwg, ond mae bendant cyswllt yno. Felly, mae angen i ni yng Nghymru ddatblygu'r arbenigedd hwnnw o asesu cynllunio a'i berthynas efo'r Gymraeg.

Mr Davies: No, that is exactly it. If I could just return swiftly to Nick Ramsay's point, there is a real risk of not doing that. There are implications for communities where the Welsh language is still a majority language, but we have to consider how far environmental concerns have come in the last 50 years. It is a complex area, but it is an opportunity to develop expertise in this area. If it were to be included in statute, then that would require that to happen, in a way. I have attended similar committees and I think I know how climatologists now feel in arguing with Esso, for example, on the issue of global warming: the link is not perhaps immediately apparent, but there is a link. So, we in Wales need to develop that expertise in assessing planning and its relationship with the Welsh language.

[323] **Alun Ffred Jones:** Diolch yn fawr. Colin Nosworthy, yn fyr iawn.

Alun Ffred Jones: Thank you very much. Colin Nosworthy, very briefly.

[324] **Mr Nosworthy:** Fe ddylai'r Gymraeg fod ar wyneb y Bil fel ystyriaeth berthnasol. Hefyd, mae angen gyfundrefn asesiadau effaith iaith er mwyn i hynny weithio'n iawn. Fodd bynnag, yr hyn yr ydym yn ceisio pwysleisio yw'r ffaith nad yw tai'n fforddiadwy i bobl leol a bod penderfyniadau sy'n cael eu gwneud yn bellach i ffwrdd o bobl yn cael effaith fel fframwaith ar y Gymraeg hefyd. Nid yw jest y mater hwnnw.

Mr Nosworthy: The Welsh language should be on the face of the Bill as a relevant consideration. There also needs to be a language impact assessment regime for that to work correctly. However, what we are trying to emphasise is the fact that homes are not affordable for local people and decisions that are made further away from people have an effect on the Welsh language. It is not just that one matter alone.

- [325] Diolch am eich amser. Thank you for your time.
- [326] **Mr Lewis:** Mae pobl wedi ei ddweud yn fwy priodol na finnau. **Mr Lewis:** People have put it more succinctly than I could have done.
- [327] **Alun Ffred Jones:** Diolch yn fawr iawn ichi am ddod i mewn. Fe gewch gopi o'r *transcript* er mwyn ichi sicrhau bod yr hyn sydd wedi cael ei gofnodi yn gywir. Diolch yn fawr ichi am eich cyfraniadau. **Alun Ffred Jones:** Thank you very much for joining us. You will receive a copy of the transcript to check for accuracy. Thank you for your contributions.

11:38

Bil Cynllunio (Cymru): Cyfnod 1—Sesiwn Dystiolaeth 12
Planning (Wales) Bill: Stage 1—Evidence Session 12

- [328] **Alun Ffred Jones:** Cyfeillion y Ddaear sy'n rhoi tystiolaeth nesaf. Croeso atom, Naomi. Gofynnaf iddi— **Alun Ffred Jones:** Friends of the Earth is giving evidence next. A warm welcome to Naomi. Could I ask her—

[329] Could I ask you to give your name and position for the Record and then we will proceed?

[330] **Ms Luhde-Thompson:** Diolch yn fawr. I am Naomi Luhde-Thompson. I am planning adviser for Friends of the Earth England, Wales and Northern Ireland.

[331] **Alun Ffred Jones:** Diolch yn fawr. Pwy sydd am ddechrau? **Alun Ffred Jones:** Thank you. Who wants to start?

[332] Who is going to kick off this session? Russell George steps into the breach.

[333] **Russell George:** Thank you, Chair. Good morning and thank you for coming. I wonder whether you could just expand on your comment that the Bill puts an unacceptable level of control in the Minister's hands. I wonder what you mean by that.

[334] **Ms Luhde-Thompson:** The Bill is quite a centralising Bill. Essentially, there are many more powers that are given to Welsh Ministers. This is both through the national development framework, because they are absorbing developments of national significance, and there is the ability to bypass local authorities when they are designated as poorly performing. That also draws in more applications. Both of these measures mean that the Minister will be making more decisions over planning development, and site-specific development, because the NDF is about looking at strategic sites for development.

[335] **Russell George:** Why is it a bad thing that the Minister is making these decisions, in your view?

[336] **Ms Luhde-Thompson:** Well, there are two things about that. One is that planning decisions have a very big local impact. So, there is lots of local complexity. If you have a development decision, it is going to have an impact on your social services, your education, your transport and your utilities infrastructures, and all of those things are very much defined by their local context. Taking that decision out of that local context means that that Minister has to then go and understand that local context for that decision. The call-in powers that the Ministers have at the moment are really reasonable because they are done by criteria and they are of national importance, which means that they are important for the whole of Wales, and

there are very few. In 2013, there were four.

[337] **Russell George:** When the Minister came to give evidence, we put a similar question to him, and he suggested that there would not be many more applications coming to him as a result of the Bill.

[338] **Ms Luhde-Thompson:** Well, it was four in 2013, he is going to take the 25 MW to 50 MW energy applications, and the others are undefined, so he might say that, but he is going to make the regulations about what sort of developments he is going to decide on. So, it could be many more. Of course, it all depends on whether the local authorities have been designated in some cases under the special measures. That is problematic, because what they are looking at is taking only the major applications. So, it would depend which local authority was designated, because some local authorities might have more major applications than other local authorities. So, those designated authorities could release more planning applications to go to the Minister.

[339] **Russell George:** In your evidence in this regard, you have also said that there should be a scrutiny role in the process for the Assembly. What you mean by that? Are you saying that there is no role for the Minister to be scrutinised on his decision?

[340] **Ms Luhde-Thompson:** There should be a scrutiny role on the criteria. Sorry, it was probably a little bit of shorthand in there. It feels a bit like *Groundhog Day*, because I went through this when the Growth and Infrastructure Bill went through the Commons. On the developments of national significance, if you do not set out what they are, there is no scrutiny of what those should be by yourselves, for instance. Are you going to discuss them here? Do you understand what the Bill proposes if you do not know to which developments it pertains? That was the argument there.

[341] **Russell George:** So, if you think that it is an unacceptable amount of control in the Minister's hands and you want local communities to have a greater say—

[342] **Ms Luhde-Thompson:** Local planning authorities.

[343] **Russell George:** Yes, local planning authorities. So, what amendments would you like to see in the Bill?

[344] **Ms Luhde-Thompson:** On the national development framework, there should be essentially an examination, because at the moment it is a fairly closed policy-making process. Having looked at the regulatory impact assessment, looking at the way the civil service has currently treated consultation responses, first, you do not get a lot of consultation responses to a national thing unless it is a development that is happening near you because it seems very remote to you and you cannot necessarily see those connections, so, for the public, it is quite difficult. So, you would want to have an examination process there. On the other point, it is about ensuring that there is as much local democratic accountability as possible. That is under the subsidiarity principle, where you make the decisions—

[345] **Russell George:** So, on that point, are there any other examples or models you can provide in any other administration in the UK that would involve that local decision-making element that you want to see?

[346] **Ms Luhde-Thompson:** It is just a case of remaining as it is at the moment. In the legal advice that we obtained from Richard Harwood QC, he basically said that he thought it was an unprecedented level of ministerial control that has been given.

[347] **Russell George:** Thank you.

[348] **Alun Ffred Jones:** Jeff Cuthbert is next.

[349] **Jeff Cuthbert:** I understand what you are saying, but I am not quite clear why you are saying it. One of the great problems in the planning regime is that every local authority in Wales has that duty. There will probably be fewer of them in future, as a result of Williams, but we cannot say exactly how many. However, what is the alternative, practically, other than ministerial intervention, if the planning authority is deemed to be failing and is therefore not doing the planning business properly and important developments are being held up?

11:45

[350] **Ms Luhde-Thompson:** Okay, so important developments are being held up at local level. So, you need to examine why that is happening. Is that happening because the planning resource is underfunded and there are insufficient planners within that planning authority to deal with the application? In England, previously, they had ATLAS—I do not know whether you know about it. It was a service that provided support in particular for those more difficult large and complex applications, and the local authority might not have a consistent planning resource, because it would occasionally have these big applications to deal with and the rest of the time it would not. So, is it actually about resource rather than structural change? The other problem with the proposals in the planning Bill is that, once you are designated, the regulatory impact assessment actually makes it fairly clear that there will be a cost to the local authorities of being designated of around £20,000 in addition to the cost if they had been making the decision themselves. A failing authority then has to pay extra costs for being designated, so how is the improvement happening? How is the designation helping the improvement when it is just costing the local authority another £20,000? To me, that seems a little bit problematic, because, actually, it could be a resource problem and it could be a skills problem. There are many other issues it could be that will not necessarily be dealt with if you just take the decision away from them.

[351] Plus, on the designation and what has happened in England, in the beginning there were loads of local authorities on the list for designation, and then lots of them challenged that because they said, 'Well, you don't understand. It might look like we've taken more than the designated amount of time, but actually we had a planning performance agreement with that developer because we knew it was going to be complex and we and the developer had agreed that we were going to take a bit more time to get it right'. So, there were loads of challenges to being on that list and to being designated. In the end, I think that only one was designated and has just recently been un-designated. Wales is a lot smaller than England in terms of local planning authorities, and I think that there are more effective and efficient ways of dealing with poorly performing planning authorities. It is about resource, capacity and improvement of service. At the end of the day, what you want is a really good development outcome.

[352] **Jeff Cuthbert:** That is right. Okay.

[353] **Llyr Gruffydd:** I was just wondering whether you could expand on your suggestion of a community right of appeal within the legislation and under what circumstances you think those types of appeal would be possible.

[354] **Ms Luhde-Thompson:** A community right of appeal was debated as part of the independent advisory group. I and Robert McCracken QC spoke in favour of a community right of appeal. Essentially, because judicial review is not very accessible to communities—it is expensive, it is costly and it is about process—there is no way of challenging a decision that could have wide impacts by a community. On the other hand, a developer—a private interest—can challenge the democratically accountable decision. So, to us, it just seems to be

that there is an inherent unfairness in the system. I think that the community right of appeal would have to be really limited, because what it should do is be the last port of call when there is an overriding public interest for a case. You would have to define it very clearly, so there is a public interest not being met in terms of this case and you would have specific categories for when you could bring a community right of appeal. It would not be a generic community right of appeal because I think that that would be too broad. It is about the public interest in planning. That is what the community right of appeal should be about.

[355] **William Powell:** Just to follow up on that point, previously I read some research by Friends of the Earth that picked up that, in the Republic of Ireland, there is some form currently of a community right of appeal. I wonder whether you could speak to that point as to how it works in practice, because it is often cited as a wreckers' charter in terms of preventing development and stifling economic growth and all of that sort of thing. Could you speak to that?

[356] **Ms Luhde-Thompson:** Yes, it certainly did not stifle housing development in Ireland—

[357] **William Powell:** No, clearly not. [*Laughter.*]

[358] **Ms Luhde-Thompson:** It clearly did not. There was a huge boom there of housing development, which, in the end, went bust. The planning system in Ireland you have to remember is quite different. They have that right to appeal because they actually have far fewer participation opportunities and it is a slightly broader right of appeal. Dr Geraint Ellis from Queens University Belfast is the expert on right of appeal as it exists in Ireland. Basically, there is a model there, but that model is much broader than the one you would probably want to have in Wales, because, again, as I say, you would want to limit it—it is about the public interest test—

[359] **William Powell:** It is a different context.

[360] **Ms Luhde-Thompson:** It is a different context, I think.

[361] **William Powell:** I was interested in your comments earlier about failing authorities in response to Jeff Cuthbert. You cited the potential danger that you have an ever-diminishing resource in terms of a failing authority, which could actually lead to a further spiral of decline. I just wanted to cite the example from a few years ago of when the Brecon Beacons National Park had been cited as a failing authority. One of Carl Sargeant's predecessors, Jane Davidson, put in place an improvement team, which was headed up by a planner Martin Hooker—

[362] **Alun Ffred Jones:** This is a story. [*Laughter.*]

[363] **William Powell:** In a period of years—in a couple of years—things did turn round. I wonder whether you think that there could be a role for the Welsh Local Government Association, which finds itself in some other respects under a bit of pressure at the moment, to be a focus for bringing together planning expertise so that you could have a mobile taskforce that provides the kind of support you implied was useful and relevant to this kind of situation.

[364] **Ms Luhde-Thompson:** Yes, there is also the Planning Advisory and Improvement Service, which is obviously the team that is looking at things at the moment. You would want to see whether you could have some positive relationship between the WLGA and PAIS in order for them to work together. However, I do think that it is really practical. For example, Carmarthen has a dedicated renewable energy planning officer in order to build that expertise

in those developments, which is then incredibly useful when they then provide pre-application services to renewable energy developers in that area, because they know what they are talking about and they are not hopping from housing to renewable energy to something else all the time. They are building up that expertise. I think that it would be really helpful. Wales is not that big a country. We kind of all—I was going to say that we all know each other, but it is 3 million people. There is this huge potential for working between local authorities, pooling expertise, sharing expertise and working much more as a team across those authorities and encouraging that rather than being divisive across planning authority boundaries.

[365] **Jenny Rathbone:** I just want to pick up on your point about undemocratic planning and the addition of people who are not elected representatives to planning boards. Could you expand on your concerns? You could imagine that this could be used to enhance the input of groups that are underrepresented in the democratically elected bodies. For example, in some areas, there is a definite shortage of female members or people with protected characteristics, people who have an eye on disability access and good planning around that sort of thing. So, I just wondered whether you could say why you think this is going to be used as a stick by the corporate vested interests rather than a way of enhancing good planning.

[366] **Ms Luhde-Thompson:** The corporate vested interests have already stated—. Well, were they here this morning? They have already stated their willingness to participate on these panels. I thought that it was quite indicative, having read their evidence, that they do not mention the public interest once. They do not talk about the public interest, and planning is in the public interest. So, you have to be very clear that those people who are planning and looking at the strategic issues of housing, employment, transport and climate change mitigation are actually doing so in the public interest. The code of conduct for members on planning committees is pretty clear: if you have an interest, you are not supposed to be influencing that decision. To put a vested interest in the position of influencing decisions over where housing goes is a very big conflict. I think that that would be very damaging to the public reputation of planning.

[367] **Jenny Rathbone:** I understand that, but why do you think that the Bill as drafted is going to be used in that way as opposed to being used to enhance good planning?

[368] **Ms Luhde-Thompson:** Well, it does not actually specify who should be on the panel. If it actually specified that it wanted people from the Equality and Human Rights Commission or something like that, that would be clear and you would know exactly who was going on. In the consultation document, it proposes economic, social and environmental partners. So, it does not actually say that it is trying to represent those people under the Equality Act 2010 who have protected characteristics. So, it is not actually saying that, and if it is not actually saying that, there is no guarantee that those people on the panel, given that they are going to be appointed by the Ministers—

[369] **Jenny Rathbone:** It could be subject to amendment, though, to clarify that.

[370] **Ms Luhde-Thompson:** It could, yes, but I would still steer extremely clear of putting vested interests on a panel—those with a vested private interest rather than a vested public interest.

[371] **Jenny Rathbone:** Okay, but RICS, for example, did talk about good planning and ways in which to enhance sustainability through the planning process.

[372] **Ms Luhde-Thompson:** Yes.

[373] **Jenny Rathbone:** It had pretty sensible ideas.

[374] **Ms Luhde-Thompson:** Yes, although if you read its paper on viability, which is a planning policy that has been implemented in England, you will see that that policy has been responsible for knocking out a huge amount of affordable housing from existing and future developments, because it is all predicated on whether the developer and the landowner are making sufficient profit. That has meant that their profit has come before the delivery of other socioeconomic and environmental objectives. So, there is obviously—. It is not an independent body, in that sense. It is promoting development.

[375] **Alun Ffred Jones:** We are running behind.

[376] **Ms Luhde-Thompson:** Sorry.

[377] **Alun Ffred Jones:** No, I was not talking to you. William, on this point, very briefly.

[378] **William Powell:** I have just a brief focused question on this point. Would your concerns about the strategic planning panels be allayed if the one third non-elected members were made subject to the public appointments process, as is currently the case with the national park authorities in Wales?

[379] **Ms Luhde-Thompson:** You would still have a problem with vested interest. It is still the problem of public perception if you have someone who is a volume house-builder making the plan and being associated with the company bringing forward the developments. It is a big public perception issue. It is also just a principle issue about changing the planning system. The planning system has been this democratic system, and planning is in the public interest. I would just like to note that there is no statutory purpose of planning on the face of this Bill, although obviously section 39 of the Planning and Compulsory Purchase Act 2004 applies, which is sustainable development, but it is not set out very clearly on the face of this Bill. It is just a huge concern. Do you really need to go down this route? The local authorities are going to be reduced. You can get local authorities to work together anyway. You are basically looking at at least four tiers of planning that the public has to engage with. It is difficult enough for them to engage with an LDP as it stands. It is a very closed policy-making loop at the moment, and then you are just going to make it really complicated. The Bill seems to me to be like a planning person has gone into the sweetshop for planners and said, 'I'll have one of everything, please, and just put them all in the Bill just in case I need them' so that they can get them out when they want to. [*Laughter.*] 'We will not use it; it will just be there as a carrot.' It is 100 pages of stuff that you just do not need. It is not going to make planning in Wales any better. You need to focus on outcomes, I think.

[380] **Julie Morgan:** In terms of town and village greens, we know that you do not like the changes proposed in the Bill. What do you think of the Minister's proposal that he might consider an amendment that would allow town and village green registration applications up to the point that planning permission is actually agreed?

[381] **Ms Luhde-Thompson:** So, is he going to remove any of the 14 trigger events?

[382] **Julie Morgan:** I think so, yes. I think that this amendment is his proposal.

[383] **Ms Luhde-Thompson:** Okay. There are not very many town and village greens in Wales. Urban green space is at a premium. The Committee on Climate Change published a report as part of the adaptation subcommittee, talking about the loss of urban green space over the last 10 years. It has just been nose diving. I think that this is all about developers trying to stop communities from protecting their green space. So, you have to look at it. What do you want to happen? People want to live in places where they have access to green space. So, how do you enable that in a way that is not about having a big fight about where the development goes? It is about making sure that there is green space for the community, but also making

sure that development comes forward in the right place. I do not think that these trigger events do that. It is incredibly complex for people to understand how these trigger events are working, and how they are terminating. At the end of the day, it seems to undermine the principle of town and village greens and seems to make you think, 'Well, they are all just being used; they are all obstructive', rather than taking a step back and saying, 'When those obstructions happened, why did they happen? Was that because they were all using that green space and no-one recognised the fact? They did not know that they needed to register', or whatever. It is quite a hasty measure, I think.

12:00

[384] **Julie Morgan:** What about this particular amendment that is proposed?

[385] **Ms Luhde-Thompson:** I will have to have a look at it and get back to you on it. I would need to look at the detail.

[386] **Alun Ffred Jones:** I will come back to you, now, Julie. Mick is next.

[387] **Mick Antoniw:** I think what he was suggesting was a compromise, whereby village green applications can go in at any time up to the point when the final decision is being made on granting planning permission. That is so that, after the granting of planning permission, an application could not go in as a sort of wrecking measure, but at any stage up to that, it could. There seems to be a logic to that, does there not?

[388] **Ms Luhde-Thompson:** Yes, there is a logic to that, but there are several triggers if the land is identified in the NDF or in the strategic development plan. These are all trigger events where you cannot then apply for village green status. So, there are a lot of other trigger events in the planning stage, and what Governments in England and Wales are doing is trying to encourage people to engage at the beginning of the process. So, if somebody puts an option in a plan to build on what people might want as a village green, and that means that they cannot register as a village green, you are cutting out that option right at the beginning of the planning stage as well as at the planning application stage.

[389] **Mick Antoniw:** Except what he is suggesting is that you could, in fact, put in the application, but it would be only when the application had got to the stage where the final decision had been taken to grant permission or not.

[390] **Ms Luhde-Thompson:** I am talking about site allocation, because I think it needs to happen at the planning site allocation stage as well. The site allocation stage is the pre-emption for the planning application stage, is it not?

[391] **Julie Morgan:** In England, where these changes have been in place, I believe, for some years, what evidence has emerged?

[392] **Ms Luhde-Thompson:** I have got a paper by Sasha White QC on the latest legal developments as regards town and village greens, which I can forward to you, as it is quite complex what has been going on in different places and how they have been used. So, I am really happy to forward that to the committee, if that is of interest.

[393] **Alun Ffred Jones:** Yes, thank you.

[394] **Julie Morgan:** Finally, we have been told by witnesses that some applications to establish village greens are vexatious. Do you have any comments on that?

[395] **Ms Luhde-Thompson:** I would like to see the evidence of how many are vexatious,

and I think that one should look at how many village greens we actually have. It is actually only 220 acres, I think, in the whole of Wales. That is not a lot. So, if they are putting in a planning application to frustrate the development, then I think there needs to be a really big conversation between the developer and the community about whether they feel that they do not have access to any green space and whether that is what the problem is, and there needs to be mediation.

[396] **Alun Ffred Jones:** I call Nick Ramsay.

[397] **Nick Ramsay:** Very briefly, Chair, because I know we are short of time. Naomi, going back to what you were saying about the different tiers of planning and the local government reorganisation, cutting to the quick, do you think this is a terribly timed piece of legislation, given the questions over the future shape of local government in Wales, which all sorts of people seem to have different views on? A number of Members and Ministers, or perhaps just one Minister, would rather have a different structure than that proposed by the Williams commission.

[398] **Ms Luhde-Thompson:** It is, I think, a bit of a pre-emption. So, the independent advisory group report said that the planning system is largely okay, with a few tweaks. Then we get the Planning (Wales) Bill that comes in and introduces two new tiers of planning. So, now, in Wales, if you are living in a particular place, you have to think about the national policy statements that are written in Westminster on energy, you have to think about the national development framework, the strategic development plan, the local development plan and you might also want to think about place plans, or town and community council plans. So, there are five plans that you have to look at and they are all supposed to be, roughly, talking to each other. They will never be in alignment. It will just be a situation where you just have confusion. Obviously, for a developer, there might be an advantage in that, because they can just cherry-pick which plan they want to argue for, because it is beneficial for their site. It is hugely damaging for public participation.

[399] **Alun Ffred Jones:** Right. Any further questions? Do you wish to make a last statement before we release you?

[400] **Ms Luhde-Thompson:** I think I have covered everything. One thing I just wanted to mention was the link between the Well-being of Future Generations (Wales) Bill and the Planning (Wales) Bill in terms of the definition of sustainable development and making sure that that carries across. Also, I would like to reiterate my point that changes to planning should be about improving planning outcomes, not just creating more processes. So, I think that is very important.

[401] **Alun Ffred Jones:** Diolch yn fawr. Thank you very much for presenting your case so eloquently.

[402] Dyna ni. Dyna ddiwedd y pwyllgor am y bore yma. **Alun Ffred Jones:** Right. That is the end of the meeting for this morning.

[403] That is it for this morning, folks. We will reconvene at 1 p.m. promptly.

*Gohiriwyd y cyfarfod rhwng 12:05 a 13:02.
The meeting adjourned between 12:05 and 13:02.*

[404] **Alun Ffred Jones:** Ailddechreuwn y pwyllgor. Pwrpas y sesiwn hon yw cymryd tystiolaeth gan y sector cymunedol a gwirfoddol. Croeso i chi i gyd, y pump **Alun Ffred Jones:** We will restart the committee meeting. The purpose of this session is to take evidence from the community and voluntary sector. Welcome to

ohonoch. Nid oes rhaid i chi bwysu botymau'r meicroffonau o gwbl—bydd yn digwydd yn wyrthiol. Gofynnaf ichi gyflwyno eich hunain a dweud pwy yr ydych yn ei gynrychioli, ac yna gofynnaf i Jenny Rathbone i agor y cwestiynau. Dechreuwn ar y chwith.

you all, all five of you. You do not have to touch the buttons on the microphones at all—they will come on as if by magic. I ask you to introduce yourselves and to tell us who you represent. I will then ask Jenny Rathbone to open the questioning. We will start on the left.

[405] **Ms Curtis:** Hi. My name is Lindsey Curtis, and I am an area manager for Sustrans Cymru.

[406] **Mr Hemsley:** Hi. I am Matt Hemsley. I am the policy and media adviser for Sustrans Cymru.

[407] **Mr Thomas:** Hello. Elwyn Thomas, Planning Aid Wales.

[408] **Ms Penney:** Beverley Penney for the Open Spaces Society.

[409] **Ms Hodgson:** Nicola Hodgson, case officer with the Open Spaces Society.

[410] **Alun Ffred Jones:** Lovely. Well, you are all very welcome here. I call on Jenny Rathbone.

[411] **Jenny Rathbone:** Very good. Well, obviously, the purpose of this Bill is to try to ensure that we have the most effective planning legislation in Wales that delivers good decisions in a timely fashion. Could you just outline in what way you think the Bill could be improved to enhance public engagement?

[412] **Mr Helmsley:** I will start. I think—

[413] **Alun Ffred Jones:** I call Matt Helmsley. I am going to name you, because it helps with the mics.

[414] **Mr Helmsley:** Okay. We come from a position where the planning system works better when communities are right at the heart of it. So, a lot of the work that we do, which we have some examples of, really helps communities to determine what matters to them and to design their local areas, and to have a say about their areas. We think that the planning system needs to make sure that communities can engage and have a real say about what matters.

[415] **Alun Ffred Jones:** Can I interrupt you there and ask you how you would do that? How would you ensure that?

[416] **Ms Curtis:** Sustrans has significant experience of developing and delivering infrastructure, both in the form of the national cycle network and also in urban areas, in towns and villages. We have worked in over 25 communities in the UK on street design projects alone, and our approach is always community led. For example, we worked on a project in Turnpike Lane in Haringey in London, where the first step was to consult with the community to find out what the problems were and to have an open conversation. That flagged up that the community was concerned about the quality of the public realm and that the street was not a nice place to be. There was a lot of rat running. It also expressed concern about being disconnected from the local decision-making process. Working with it to develop the scheme, we used various techniques such as going out and doing a temporary trial on the street of a different layout. We followed that up once the work was done with a survey, and we found that there was a 23% increase in all traffic travelling at less than 20 mph. We also found that there was a 34% increase in the number of people who said that the street was now a sociable

place to be. Beyond that, as part of trying to make sure that the community was engaged in the process throughout, we set up a blog, which, for an area of 1,000 households, had 17,000 hits during the project. The community also continued by setting up a campaign group following the project, so that it could remain involved in discussing local issues.

[417] **Jenny Rathbone:** That all sounds excellent for a constituency like mine in Cardiff Central, but how do you think this Bill does or does not promote that sort of community engagement?

[418] **Ms Curtis:** I guess that my concern—or our concern, sorry, as Sustrans—is that the Bill makes it quite clear, for example in talking about the national development framework, that there will be an opportunity for businesses to input into that process. There is the opportunity for communities to do that via a 12-week statutory consultation period, which takes place essentially after the policy has been developed. So, there is an imbalance there between developers or businesses inputting at the beginning, and communities commenting on policy afterwards.

[419] **Jenny Rathbone:** Okay, that is something specific. Thank you very much. Elwyn, would you just like to say why you think the Bill will significantly change the shape of the planning system?

[420] **Mr Thomas:** First of all, the Bill needs to be looked at as an opportunity to look structurally at the relationship between the land use planning system and communities in Wales. Taking it from the top, our experience of working with communities in Wales to help them to understand and engage constructively with planning indicates that there is a need to understand the context within which they are operating: they need to understand the shape of the planning system. The shape of the planning system, from our experience, is fairly easy to convey. The shape of the planning system as proposed in the Bill is going to be different from the planning system that we are currently looking at. In our view, there is work to be done to sufficiently define the new shape of the planning system and the opportunities that communities will have to engage at different levels in the hierarchy of the planning system.

[421] That is, an explanatory statement is required: something integrated that says, ‘This is planning, and if you are trying to engage creatively with it, these are the points in the process at which you can do it’. In Planning Aid Wales, we are planners. Our view on the planning system is from the communities into the planning system, so we see it in quite an unusual way.

[422] There are two main aspects to the planning system: development plans and development management, as I am sure you are all aware. We have been trialling approaches to early stage community engagement in development planning in Wales, and we have found it to be very rich and fertile territory. Our view is that there are going to be three levels of development plan: the national development framework; the strategic development plans in regions where they are in place; and local development plans. If, in the new reformed planning system, there are coherent, systematic opportunities for communities to engage and to influence outputs and decisions, then the Bill will be improving the relationship with communities. If not, then I think we will need to look quite carefully at how the reformed system is operating.

[423] **Jenny Rathbone:** What role do you think place plans play in that?

[424] **Mr Thomas:** I was just about to come on to the role of the sub-local planning authority role. That is our principal area of interest: how communities relate to local planning authorities. That is the area where we do most work. Community and town councils are seen by most planning authorities as the engagement proxy—those that are people to whom

planners tend to go to find out what communities want.

[425] There are two issues there. There is only partial coverage in Wales of community and town councils. In areas where there are no community and town councils, as currently constructed, there will not be opportunities for communities to place plan, which, to us, seem odd. Secondly, our reading of the proposed legislation is that there is not much definition about actually what is going to be happening between communities and local planning authorities in terms of development planning and place making. That is our prime observation. We would like to know a little bit more about what the proposals are, how the mechanisms will actually work, and how communities will feed in to development planning and decision making at the local to sub-regional level.

[426] **Jenny Rathbone:** Community councils come in all shapes and sizes. Some of them are effectively engaging with their communities, and others are not. So, what other mechanism could we use, given that I am not sure that creating more community councils is going to be the way forward?

[427] **Mr Thomas:** I think that there is recognition across the piece that capacities need to be raised in the community and town council sector. We see opportunities associated with place planning and coherent engagement with the planning process as an encouragement for community and town councils to get better at doing what they should be doing, which is conveying community messages into public sector and regulatory processes.

[428] **Jenny Rathbone:** Or, alternatively, area committees within local authorities.

[429] **Mr Thomas:** Absolutely, however it might be done.

[430] **Alun Ffred Jones:** Llyr is next.

[431] **Llyr Gruffydd:** I just want to pick up on the concern that maybe the erosion of democracy within the planning system may come from the Bill. We are moving to a situation where we have a national development framework, which will basically set the parameters for strategic development plans, which, in turn, will therefore dictate, in effect, to local development plans their parameters. Surely, that is a top-down approach. You mentioned the need for it to be community up. There is always an issue about expediency of the process and meaningful engagement with the local communities. Very often you find people complaining about developments, not at the LDP stage, but when the planning permission or the building starts. How do you grapple with that? We all understand the need for expediency and for some issues to be dealt with at a ministerial level, such as national significance, but you need to ensure that there is a meaningful process behind that in terms of engagement.

[432] **Mr Thomas:** I think that your point is very well made. There are always tensions between the top down and the bottom up. Planning is a complex process. It operates across Wales, and it is trying to do large infrastructure down to household extensions. When we talk about the need for an explanation of the proposed shape of the planning system, we are looking for some sort of indication to communities to say that the national development framework will be doing this, it is of such strategic importance to the nation that the opportunities for local input need to be limited, hence the expedience. We are also looking for statements that say, if you want to get involved at a local level, the points at which you do it are through local development plan engagement or strategic development plan engagement or national development framework engagement, as and when it is happening. We accept that there are tensions. We are not so blinded by our perspective that we do not see the need for top-down. We see planning as an integrated process. There is undoubtedly a need for the national to define what is needed nationally. What we are looking for is a coherent explanation of how communities can feed in and influence the different levels. If it is less at

the national, then an explanation as to why will suffice.

[433] **Llyr Gruffydd:** With the strategic planning development panels, there is a proposal for a third of non-elected representatives to sit on those. That is introducing, I think, a questionable principle in terms of them having voting rights around that table. Are you comfortable with that or would you prefer something more similar to the Scottish model, where they are there in an advisory capacity but they would not have any voting rights?

[434] **Mr Thomas:** I am not sure it is for me, representing Planning Aid Wales, really trying to represent the needs of the 3 million people in Wales in terms of how they want to engage with the planning system, to intervene in the detail of that. What we would like to see is opportunities for local communities to influence the strategic development plan-making process in a way that will be meaningful for them.

13:15

[435] **Llyr Gruffydd:** I do not know whether the other members of the panel might have a view, but is there not a danger that, in introducing an unelected element, vested interests will have an undue influence on the process? Or do you not have a view, which is fine?

[436] **Mr Hemsley:** I would say that it is not something that we have looked at in depth. I would agree that the main thing is being able to find a way that the communities can get involved in developing the processes. If you were able to do that, I think that that would be the key thing.

[437] **Alun Ffred Jones:** On this, William Powell has a question and then I will bring in Julie.

[438] **William Powell:** Diolch, Gadeirydd. Could I ask you whether you have had any experiences in your different organisations of working with the national park authorities of Wales? They fit very neatly into that category, having currently two thirds of local authority representatives appointed by the local authorities and one third appointed by the Welsh Government under the public appointments procedure. I do not know whether any experiences you have had with those three planning authorities would inform your views of the question that was just asked.

[439] **Mr Thomas:** I think that I should reply on that. At Planning Aid Wales, we have worked in some detail with the Brecon Beacons National Park Authority. I have also worked with Snowdonia National Park Authority and have pretty good links with Pembrokeshire Coast National Park Authority. The reason for that is that the national park authorities are single-purpose planning authorities. You all realise that they are the three additional authorities on top of the 22 unitary authorities, and that makes them of interest to us in terms of how planning interacts with communities, because there is no associated distortion around housing and other issues that are confused within unitary authorities. Our relationship with national park planning authorities has been very positive. We see them as being committed to working more closely with their communities, and we see them as seeing benefit in ensuring that the planning process in national parks is, to some extent, community-sensitive. I do not think that the fact that their governance is two thirds and one third is in any way relevant to the way that they are working with communities, personally.

[440] **William Powell:** Okay. If the Minister is able to proceed with his current plans for there being one third of non-elected members, would you have a view as to whether there would be greater public confidence in those people appointed if the public appointments procedure were employed rather than people potentially waiting to be summoned by the Minister or future Minister from his address book?

[441] **Mr Thomas:** Most certainly.

[442] **Alun Ffred Jones:** Julie Morgan is next.

[443] **Julie Morgan:** Thank you very much. I want to ask the Open Spaces Society about why it objects to the proposed changes to the registration process for town and village greens.

[444] **Ms Hodgson:** The main issue we have is that the proposals in the Bill will remove the rights of local people to make valid applications to register land as a village green—land that they have often been using for 50 or 60 years. This is an important local community issue, and it is one of the reasons why it can be an emotive issue, because it means so much to a community.

[445] In respect of evidence, in the explanatory memorandum and impact assessment, there are supposedly only six village green applications a year in Wales, and yet the measures that are being proposed are so draconian because there are in fact three hits at the legislation. There are the new trigger events, which bring in a prohibition of village greens in any situation where land has entered the development phase. So, that could be from a draft plan all the way through to a determined planning permission. There is also the proposal to introduce landowner statements, which will mean that land cannot be registered as a village green unless a grace period is allowed, and, from the Bill, it is not entirely clear whether there will be this grace period of a year. There is also a reduction of the present two-year period in the legislation to one year, and these types of applications do take a very long time for communities to put together. Frequently, they are communities that do not have resources. We have already heard about areas where there are not community councils to assist. It is quite an onerous process. The criteria are very strict, and it is very difficult for small lay groups to get hold of the criteria and evidence they need to satisfy an application.

[446] **Julie Morgan:** What do you think of the proposal that the Minister has mentioned to us where he is considering an amendment that would allow the application for a village green to go right up to the point at which a planning application might be approved?

[447] **Ms Hodgson:** I think that there is going to have to be very careful consideration of how that would actually work in practice. We have already heard about looking at early communication and how that may or may not work. So, I think that it could be problematic, although it is not necessarily the case that it could not be overcome. Obviously, we would be happy to have further discussions about that. I think that the important aspect is to make sure that the village green criteria can be considered within that process where there is a planning application. At the moment, it is not viewed as a material consideration. So, frequently, when people raise it as an objection, it is not given any weight at all. One of the other issues is that what we have found from evidence is that, where a village green application has been submitted, sadly the process can be quite slow because, at the moment, there are no time limits. Again, that is something that this society has made proposals about to improve the system. However, the problem is that, if a planning application is then put in, that decision process goes through even though there has already been a village green application. So, I think that any look at how these things are going to relate—. They need to be reciprocal measures.

[448] **Mick Antoniw:** Just to clarify that, because I am a little unclear about precisely what you are saying, if the suggestion was that the proposals be amended so that a village green application could go in at any stage during the planning process up until the final granting of planning permission—that is, the final decision—surely that would not be unreasonable.

[449] **Ms Hodgson:** No, I agree, as long as that process is available for that evidence to be

heard about the village green criteria, yes.

[450] **Mick Antoniw:** So, the application for the village green application, once it went in, would prevent the final decision on the planning application being made. That is the sort of proposal that would satisfy the concerns that you have, is it?

[451] **Ms Hodgson:** Yes, it would.

[452] **Mick Antoniw:** Okay, thank you.

[453] **Julie Morgan:** Do you have any evidence of vexatious applications for village green status?

[454] **Ms Hodgson:** What I would say is that this term ‘vexatious’ is bandied around. I think that it is very difficult. We certainly do not encourage applications where there is not strong evidence. Yes, there will inevitably be occasions where there is a conflict in use, where people suddenly discover that their generations-long use of the land is being threatened. I have analysed some of the evidence that the Minister gave me, and I am happy to leave that for the committee if it would be helpful.

[455] **Julie Morgan:** Thanks, yes.

[456] **Ms Hodgson:** However, basically, the conclusion, as I have already said, was that some of the issues came about because village green applications had been put in and then, subsequently, sometimes a couple of years down the line, a planning application had been put in. So, there is a lot that could be looked at in respect of the system itself.

[457] **Mick Antoniw:** May I follow this up? It relates to this generally but also to a comment made earlier with regard to place plans and community councils with regard to the point that was being made about the democratic input and where it comes. Of course, some areas have very well-established operating community councils. Taf Ely is an example. However, of course, other areas, like Rhondda, do not have them at all, and in other areas there is obviously variance in terms of governance, size, capacity and so on and so forth. On the basis that we are likely to have fewer councils, they are likely to be large, and of course that will be an issue. What is it you are proposing exactly in respect of those areas that actually do not have community councils as a substitute?

[458] **Mr Thomas:** I will chip in on that. When planning authorities are preparing a local development plan, as part of the preparatory work, they have to draft something called a community involvement scheme, which defines, within their planning area, the communities and the groups they will use as proxies for community engagement in the plan-making process. In the absence of community and town councils, or even where community and town councils are in existence but do not have the capacity to engage creatively, I see no reason why local planning authorities should not look at other proxies within the communities. All areas of Wales are covered by interest groups or local community groups. There is a whole mosaic of them. It is about the culture of planning being receptive to building communication and engaging meaningfully with that level of society. Does that help?

[459] **Mick Antoniw:** Does inconsistency concern you though? That would mean that you would have a whole variety of different types of engagement. Or is it basically the case that, as long as there is an engagement process—

[460] **Mr Thomas:** If you are going to engage local people in a regulatory process, by its very nature, one needs to spread the net very widely. If you spread the net very narrowly and define one or two or a limited number of proxies, you only get a limited view of community

needs and preferences. So, planning authorities are, under the development plan preparation process—local development plans—encouraged to spread the net widely and to listen to a mosaic of voices to understand the grain of local needs and preferences.

[461] **Mick Antoniw:** Do you think that, within the Bill as drafted, place plans have sufficient status within the model?

[462] **Mr Thomas:** I do not see reference to place plans in the Bill. I saw reference to place plans in the Positive Planning consultation, which was Bill-plus. Place plans will have the status of supplementary planning guidance, which in itself is rather ill-defined. So, we are looking for more detail, more nuanced thought being given to exactly how this linkage between local communities and planning as it is done by local planning authorities is going to work. In our view, that is the most interesting part of the process. At the moment, the notion of place plans is great, but we cannot see the hooks on which place plans are going to hang.

[463] **Russell George:** In the last couple of sessions, we have heard evidence from witnesses who are concerned about centralisation of powers into Ministers hands and communities not feeling engaged. We have touched on that today. However, I am just wondering what models there are in other parts of the UK that you could tell us about, drawing on their experience, whether negative or positive, with regard to how they can involve the local community. Thinking particularly about the Localism Act 2011, for example, in England, do you have negatives or positives? Do you think that it does engage people or does not engage people? Do you have any experience on that that you can tell us about?

[464] **Mr Thomas:** I think that, as a committee, you took evidence in the pre-legislative inquiry that you undertook from somebody in Planning Aid England—

[465] **Russell George:** We did, yes.

[466] **Mr Thomas:** They had experience of neighbourhood planning in England.

[467] **Russell George:** Yes, he did, yes.

[468] **Mr Thomas:** It is not something that I am an expert on. I do obviously look in interest at what happens in England, and I observe that there has been an adjustment in terms of objectives of localism. Localism was the ability for communities to do what they wanted in their locality, until there was friction with the top-down planning system, and, as discussed, there needs to be a two-way flow. There was a tweaking, as I think it is best described, of the neighbourhood plan process mid-legislation to say that neighbourhood plans would need to be in conformity with adopted development plans, which is, from a planning perspective, the right way to do it.

[469] **Russell George:** We mentioned town and community councils before and the fact that some areas not covered by those councils. Is a neighbourhood plan or a model of that sort going to be suitable to plug that gap, perhaps, and for local experience, knowledge or views to be useful?

13:30

[470] **Mr Thomas:** There are numerous—more than I could talk to you about in hours—examples of communities being engaged in regulatory processes.

[471] **Russell George:** Give us the best example that you have.

[472] **Mr Thomas:** Bristol, for example, has a long history of over 20 years of a set of enlightened individuals encouraging communities to engage creatively with city governance. If you wished, I could provide you with information about some of the outcomes and outputs from those processes. These are non-statutory. This is local government working with communities in innovative and creative ways. There is often not a need for legislative hooks; there is a need for the culture of public governance and regulation to be open to bottom-up messages.

[473] **Russell George:** On the example that you gave in Bristol, could you just expand or give a bit more information about how that works? Sorry; I do not quite understand.

[474] **Mr Thomas:** Okay. A city planning authority, for example, needing to find housing sites, looking across the piece, and looking for large chunks of land to accommodate large numbers of housing, which is on a strategic level. The standard planning model is to find your sites and defend them. There have been good examples in Bristol of work being done with communities that have land within their areas to develop proposals that will have an element of community payback, so that the community acknowledges the need for housing development, helps to define sites, helps to master-plan sites, and then generates benefit for the host community from the development.

[475] **Russell George:** What framework will allow for that to happen? Neighbourhood planning, or was it—

[476] **Mr Thomas:** In that particular case, yes, neighbourhood planning. There are histories of that happening throughout planning over the last 50 or 60 years in local areas without a statutory framework required.

[477] **Russell George:** Yes. So, in terms of the example that you gave in Bristol, you portray it as a good example.

[478] **Mr Thomas:** I think that it is a good example, because it is not an affluent community that was the host community.

[479] **Russell George:** There was one criticism, perhaps, of local development of neighbourhood plans in that some areas have expertise and people within the community to offer their experience, but some poorer communities do not have people coming forward. That was seen as weakness in neighbourhood—

[480] **Mr Thomas:** I think that it is inevitably a weakness of the engagement model that planning has. It casts out invitations to participate, and listens to responses. There is not the culture of thinking creatively: do we just cast out, or do we actually do some work to find out what the grain is, what the diversity is, what the balance is and how do you do this systematically?

[481] **Russell George:** So, if you are supportive of the neighbourhood planning model—and there clearly could be good bits and bad bits to that—what amendment would you suggest to what we are looking at?

[482] **Mr Thomas:** At the moment there is nothing within the proposed legislation that we can see that links the proposals for place planning, and community and town councils engaging constructively with planning. There is no link between the positive planning consultation and the legislation that you are considering.

[483] **Russell George:** Should there be?

[484] **Mr Thomas:** We would like to see something within the legislation that says, ‘This is an area of interest. This is an area where further work is required’, and possibly a clause or some sort of option for secondary legislation to define roles and to define processes. There is a danger that, without processes, it will not happen.

[485] **Jenny Rathbone:** What about the role and duty of the local councillor to listen to and articulate the views of the community that they have been elected to represent? Can you give any examples of good or poor practice in Wales?

[486] **Mr Thomas:** I think that all planning authorities in Wales are examples of—

[487] **Jenny Rathbone:** I was thinking of where—. Normally, a councillor is excluded from a planning committee if it relates to their ward, but that is because they have a role in ensuring that the voices of the local community are heard, and they do not want to be put in an invidious position. So, there is a very clear role. Is that something that you think is well executed in Wales, in your experience?

[488] **Mr Thomas:** I will look at it in a slightly different way, if you do not mind. I am not sure that the model of community representation in planning through elected county councillors is adequate. I think that if you were to leave all the representation of planning to be done through elected councillors, you would not have a particularly receptive planning system to community efforts to engage.

[489] **Jenny Rathbone:** Why is that?

[490] **Mr Thomas:** Because of the mechanics of representation and because, when one represents a group of people, over time, one comes to represent sections of the whole constituency rather than the holistic whole of the constituency.

[491] **Jenny Rathbone:** What about the duty to consult?

[492] **Mr Thomas:** Sorry, you are taking me into really complex territory here. On the duty to consult, the words ‘consultation’ and ‘engagement’ are used very, very loosely at present. The duty to consult is about, ‘What do you think about what we’re doing?’ Planning Aid Wales is talking about engagement, which is giving people the power to understand the process and opportunities to help develop options at meaningful stages of the process.

[493] **Alun Ffred Jones:** On the national development framework, would you expect this to include transport? I am thinking especially of your field of interest.

[494] **Mr Hemsley:** Yes, obviously, I think that we would expect it to include certain elements of transport, absolutely. I think that transport is vital in national planning with regard to how you move people around and the economy. So, of course, you would want to see some schemes as part of the national development framework. The proposal is that the strategic development plans will be linked to transport. Obviously, transport is something that works across authority or planning areas, so you would expect to see some there as well. However, obviously, there are going to be different types of transport operating in different kinds of ways. As you are aware, we work on walking and cycling and community planning, which you would like to see at the lowest level as well, because you want to see people being able to have control over planning the way in which they get around their own communities and providing the places that they want to see and the way they get around. So, obviously, you would expect to see various different types of transport considered in the different planning areas.

[495] **Jenny Rathbone:** You have argued in your written evidence that you would like to

see Public Health Wales as a statutory consultee in certain circumstances. Do you think that you could define what you mean by ‘certain circumstances’?

[496] **Mr Hemsley:** Yes. I think that planning and public health have really crucial links. The way that we design our communities has a very strong impact on the way we get around them. We have given evidence before and obviously the Active Travel (Wales) Act 2013 went through the Assembly dealing with the importance of the fact that, for too long, we have often designed for cars, which has meant that people have been encouraged to drive shorter journeys. The health impact of that has never been taken into account as part of the planning process. So, particularly looking at local schemes, it is really important that we look at the links between public health and planning and that people who are experts in public health are able to comment on and have a say on schemes that have an impact on the way we live our lives at that level.

[497] **Alun Ffred Jones:** Are there any other questions?

[498] **Llyr Gruffydd:** I want to talk about strategic development plans, and this is something that I have asked other witnesses today. We are moving to a situation where we will have fewer local planning authorities through local government reorganisation. Those will be larger planning authorities and, by nature, they will be a bit more strategic in their approach. So, do we really need strategic development planning or would that just be happening anyway given that we are moving towards larger local authorities?

[499] **Alun Ffred Jones:** A ‘yes’ or a ‘no’ will do. [*Laughter.*]

[500] **Mr Hemsley:** In our written evidence, we have said that we are concerned that the Bill does not appear to be future-proofed in that way, so it is unclear what impact the Williams commission proposals or whatever comes out of that will have on the plan proposals. So you might find, indeed, that some of the SDPs that might be set up will become unnecessary steps. It is unclear to us exactly how these things that have been created are going to cope with the local government change that is coming, in whatever form that takes.

[501] **Llyr Gruffydd:** Would you not feel that, under the proposals as they stand, notwithstanding the argument as to how many tiers we really need anyway, the strategic development plans will not cover all parts of Wales, and that areas that would not be covered potentially still have some strategic issues that might not necessarily be addressed at a national development framework level, but would not maybe need that level of regional approach to planning as well?

[502] **Mr Thomas:** I think that what is being proposed is a tool as part of a more integrated toolkit. SDPs are not proposed across Wales, as you say. SDPs are a mechanism that could kick in as and when required, and I think that two or three examples of ‘as and when required’ have been given, although no real specifics about ‘This is the plan area’.

[503] **Alun Ffred Jones:** Okay. William Powell has the last question.

[504] **William Powell:** Diolch, Gadeirydd. What are your views, or the views of the people whom you represent, in terms of the proposal to introduce a mechanism whereby a potential developer can bring an application direct to Welsh Ministers in the event of a particular planning authority being deemed to be in a failing state?

[505] **Alun Ffred Jones:** Any views? Elwyn Thomas?

[506] **Mr Thomas:** No.

[507] **Alun Ffred Jones:** No views.

[508] **William Powell:** Fair enough. It is just a situation whereby there would be no means of appeal in any event, and that is a matter that other witnesses have expressed some concern about, so that is why I wished to flag the issue.

[509] **Mr Thomas:** I think that one should always be concerned at the withdrawal of potential opportunities to appeal decisions. I think that I have heard the Minister say that it is very much seen as a last resort, and that he sees it as very unlikely that one would end up in a circumstance where a planning authority was failing.

[510] **William Powell:** I am grateful for that feedback. Thank you.

[511] **Alun Ffred Jones:** Diolch yn fawr iawn. There are no further questions. May I thank you for attending and for presenting your evidence? You will receive a transcript of the proceedings so that you can check it for accuracy. Diolch yn fawr iawn. Thank you, once again, for helping us in our deliberations.

13:42

Papurau i'w Nodi Papers to Note

[512] **Alun Ffred Jones:** Rydym yn symud **Alun Ffred Jones:** We move on to the ymlaen at eitem 7. seventh item.

[513] There is a letter from the Minister, further information regarding fuel poverty, and a letter from the British Medical Association Cymru regarding the Well-being of Future Generations (Wales) Bill. Are they noted? I see that they are. Diolch yn fawr.

Cynnig o dan Reol Sefydlog 17.42 i benderfynu Gwahardd y Cyhoedd o Weddill y Cyfarfod

Motion under Standing Order 17.42 to resolve to Exclude the Public from the Remainder of the Meeting

[514] **Alun Ffred Jones:** We now come to item 8. I move that we go to private session under—

[515] Beth ydy Rheol Sefydlog yn What is it in English? Saesneg?

[516] **Mr Davidson:** Standing Order.

[517] **Alun Ffred Jones:** It is Standing Order 17.42. I move that

the committee resolves to exclude the public from the remainder of the meeting in accordance with Standing Order 17.42(vi).

[518] Are we in agreement? Yes. We are private, very private, now.

*Derbyniwyd y cynnig.
Motion agreed.*

Daeth rhan gyhoeddus y cyfarfod i ben am 13:43.

The public part of the meeting ended at 13:43.