

Infrastructure 28, Lightsource bp

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil Seilwaith (Cymru) | Infrastructure (Wales) Bill

Ymateb gan Lightsource bp | Evidence from Lightsource bp

General principles

What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

We welcome the intention to unify and streamline the infrastructure consenting regime in Wales.

Overall, we support the general principles of the Bill in providing greater certainty and consistency for developers, planners and communities especially in reference to low carbon infrastructure. If Wales is to deliver 100% of its energy needs through renewable technologies by 2035 and be Net Zero by 2050, solar will need to play a core role and will need to be delivered within manageable timeframes. By making a more efficient regime and building developer confidence in that regime to deliver decisions that are consistent on Welsh infrastructure projects, the ambitious renewable energy and net zero targets are more likely to be met.

Further aligning the Welsh consenting regime and planning system with the English is welcomed. Many developers of potential Welsh Infrastructure Projects (WIPs) will also have Nationally Significant Infrastructure (NSIP) in England. Aligning the two processes and thereby reducing the amount of additional and unfamiliar requirements to get an infrastructure plan approved in Wales should reduce the inconsistency in applications received by Welsh authorities. This should, as a result, reduce time and resource spent on examining applications.

We welcome the principle of flexibility written into the provisions of the Bill. Many of the technologies which will be covered by the Bill, solar energy included, have evolved a lot over the past decades and will continue to do so up to the net zero ambition by 2050 and beyond. The needs and views of the public as well as

pressures on planning authorities are also likely to shift over time. It may therefore be necessary for the Welsh Minister to adjust the regime to adapt to these changes. However, it is important to maintain balance and consistency to allow long term planning and confidence in the ambition to decarbonise. Changes and perceived future changes threaten to undermine confidence in developing solar energy projects in Wales. It will be important that policy statements address uncertainty and make deliberate changes where required.

While the principles of the Bill are very legitimate and needed in a regime which has become very complex, a lot of detail is for now dependent on pending secondary legislation and we welcome further clarity on how these principles will be made to work in practice.

Due to the similarities with the Planning Act 2008, it will be important to take on board lessons from the NSIP regime in England and the proposed reforms currently out for consultation, particularly in relation to streamlining the process and ensuring proportionate involvement.

What are your views on the Bill's provisions (set out according to parts below), in particular are they workable and will they deliver the stated policy intention?

Part 1 - Significant infrastructure projects

We welcome the alignment with the NSIP regime on the designation of mandatory Significant Infrastructure Project (SIP) above 50MW. Such alignment would put prospective projects on an equal footing in both England and Wales and lead to more consistency in the type and quality of applications received. The effectiveness of this however is dependent on the voluntary SIP designation.

However, it is unclear how 10-50MW onshore renewable energy projects will be consented once the Bill is in place. We would welcome further clarity as to how this would work in practice, particularly in relation to solar projects.

Similarly, clarity is needed on clarity on the consenting route for 132kV grid projects less than 2kms.

With regard to the thresholds, for electricity generating stations including solar PV projects, there needs to be clarity as to the MW is measured in direct current (DC) or alternating current (AC) as per the National Policy Statement for Renewable

Energy Infrastructure (EN-3) as consulted on in March 2023 – specific reference to paragraphs 3.10.41 to 3.10.49.

Part 2 - Requirement for infrastructure consent

We support the proposal to unify all consents and authorisations under a single Infrastructure Consent (IC) for a Significant Infrastructure Project (SIP). This simplified, more efficient and more accessible regime will benefit applicants providing increased certainty and more timely decisions – particularly if the examination is conducted within a specified timeframe. This will in turn, help Wales achieve on its renewable energy targets.

Part 3 - Applying for infrastructure consent

The general alignment with planning regimes in England in particular the IC in Wales with the DCO in England will benefit developers, planners and others involved in the planning process due to familiarity.

Consultation and Publication

Early and well-planned stakeholder engagement and consultation is fundamental to developing well-considered, designed and quality projects with stakeholder and community support. We support the need for a front-loaded approach. However, it is important any pre-application consultation requirements, remain proportionate and not overly onerous, as can be the case with the NSIP regime. We would also recommend some flexibility in timeframes for consultation, and not constrain the period between notification and submission to a year as per the current DNS process.

Making an Application

It is important that Application and subsequent Examination, requirements remain flexible and proportionate and not overly onerous, as can be the case with the NSIP regime.

Currently there is no prescribed time period for the decision on whether an application is valid to be made – in contrast with the 28-day period in England. We recommend that this is prescribed.

Part 4 - Examining applications

We welcome the intention to develop a regime which will provide timely, proportionate and consistent decision making. Further information is needed as

to how applications will be examined, in particular regulations for how an examining body can apply the use of hearings, inquiries or written representation, dependent on secondary legislation.

The Bill provides that applications must be decided within 52 weeks of the date of validation of an application, or another period as agreed between the applicant and the Welsh ministers.

As drafted, the Bill provides the scope for timescales to be extended which creates uncertainty for developers and overall project delays which undermines the second objective of the legislation. There needs to be specific statutory timescales, that cannot be extended without valid reason or the consent of the applicant.

Furthermore there needs to be prescribed timescales for each stages once the application is submitted, for example, there is no prescribed time period for the decision on whether an application is valid to be made – in contrast with the 28 day period in England; and the Bill provides for appointed examining authorities to report to the Welsh ministers, no timeframes are currently given for when that must happen within the 52-week process.

As per our response to Question 1, due to some similarities with the Planning Act 2008, it will be important to take on board lessons from the NSIP regime in England and the proposed reforms currently out for consultation, particularly in relation to streamlining the process and ensuring proportionate involvement.

Part 5 - Deciding applications for infrastructure consent

As in our answer to Question 2.iv) Part 4, the definite 52-week time limit is useful in providing certainty however much of what needs to happen in that period from validation to decision is not clearly defined.

Part 6 - Infrastructure consent orders

As in our answer to Question 1, we welcome the alignment with planning regimes in England in particular the IC in Wales with the DCO in England. Familiarity for developers of large infrastructure projects across both countries will benefit in the form of more consistent applications. And as in our answer to Question 2.ii) Part 2 the streamlining of the many the requirements which would have had to go through separate applications into one single IC will reduce the burden on developers and reduce the complexity of applications to all stakeholders.

Part 7 - Enforcement

No response.

Part 8 - Supplementary functions

No response.

Part 9 - General provisions

No response.

What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

Infrastructure Policy Statements

As set out in the Bill, the decision on a SIP must be made in accordance with the National Development Framework for Wales, any marine plan and any 'infrastructure policy statement' for that type of development issues by the Welsh ministers. Similar to the National Policy Statement regime in England, the development of these policy documents will be a critical piece of this new regime.

There needs to be sufficient lead in time to properly develop and consult on these Infrastructure Policy Statements (including to balance potentially competing issues and decision making).

Transitional arrangements

Transitional arrangements are particularly important especially for projects currently proceeding through the DNS process; more information is required on how these arrangements would work and when will they come into effect to allow developers to forecast project timescales, programmes, and investment decisions.

Resourcing.

Where authority has shifted between the DNS and SIP regime resourcing is important to ensure the Welsh Minister or selected examining body does not become a bottleneck for planning decisions. Statutory consultees should have the resources to consult and report on projects and that LPA have the required resources to maintain confidence in decision making. Poor resourcing has the potential to undermine any efficiency gained through improved procedures as applications get stuck and delayed or poor and inconsistent decisions are made.

How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)?

No response.

Are any unintended consequences likely to arise from the Bill?

The memorandum gives a high-level perspective on the planned provision and general principle of the new regime, however, much of the regulation is dependent on secondary legislation which makes it difficult to give a full assessment on the potential consequences of this regime.

What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

The memorandum gives a high-level perspective on the planned provision and general principle of the new regime, however, much of the regulation is dependent on secondary legislation which makes it difficult to give a full assessment on viability and financial impact of this regime.

Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?

There is currently insufficient detail on how cross-border projects would be consented and how the consenting regimes on each side of the administrative boundary will interact.

There needs to be clarity and certainty on intent and mechanism for proposed s57(6) ability for Welsh Ministers to grant consent for 'materially different' proposals.

Section 35 of the Planning Act 2008 sets out the process by which projects which do not meet the thresholds of a nationally significant infrastructure project are directed into the DCO regime. It may be helpful for the SIP regime to include a similar provision.

The memorandum does not give any indication of a transitional period. There are prospective projects in early design stages now which may have to take into account potential changes to the planning regime in 2024/2025.
