



Llywodraeth Cymru
Welsh Government

Explanatory Memorandum

Planning (Wales) Bill and Planning (Consequential Provisions) (Wales) Bill

DATE OF INTRODUCTION:
15 September 2025



“And by the common counsel and agreement ... they examined the old laws, and some of them they allowed to continue, others they amended, others they wholly deleted, and others they laid down anew.”

Book of Iorwerth 1240

Explanatory Memorandum to the Planning (Wales) Bill and the Planning (Consequential Provisions) (Wales) Bill

This Explanatory Memorandum has been prepared by the Office of the Legislative Counsel and the Planning Directorate of the Welsh Government and is laid before Senedd Cymru.

It was originally prepared and laid in accordance with Standing Order 26C.9 in September 2025, and a revised Memorandum is now laid in accordance with Standing Order 26C.38.

Contents

Member’s statements on introduction of the Bills.....	5
Index required under Standing Order 26C.10.....	7
Part 1 – Background to the Bills	9
Description.....	9
The planning system in Wales.....	9
Reasons for introducing the Bills	11
General approach to the Bills	13
Accessibility and codification of Welsh law.....	15
Consolidation of legislation passed by the Senedd or made by the Welsh Ministers	16
Matters not included in the Planning Bill.....	17
Legislative competence	21
Part 2 – Additional expenditure.....	22
Analysis of additional expenditure	22
Identified areas of additional expenditure	22
Affordability assessment	26
Summary.....	26
Part 3 – Impact assessments.....	27
Integrated impact assessment	27
Justice impact assessment.....	27

Annexes

Annex A1	Explanatory Notes to the Planning (Wales) Bill
Annex A2	Explanatory Notes to the Planning (Consequential Provisions) (Wales) Bill
Annex B1	Table showing the origins of provisions in the Planning (Wales) Bill
Annex B2	Table showing the origins of provisions in the Planning Consequential Provisions) (Wales) Bill
Annex C1	Tables showing the destinations of existing provisions restated in the Planning (Wales) Bill
Annex C2	Tables showing the destinations of existing provisions restated in the Planning (Consequential Provisions) (Wales) Bill
Annex D1	Explanation of changes made to existing provisions within the Planning (Wales) Bill (referred to as the Drafters' Notes)
Annex D2	Explanation of changes made to existing provisions within the Planning (Consequential Provisions) (Wales) Bill (referred to as the Drafters' Notes)
Annex E1	Correspondence from the Law Commission (16 May 2024)
Annex E2	Supplementary correspondence from the Law Commission (23 July 2025)

Member's statements on introduction of the Bills

Statement required under 26C.9(i)

In my view the provisions of the Planning (Wales) Bill and of the Planning (Consequential Provisions) (Wales) Bill, introduced by me on 15 September 2025, would be within the legislative competence of Senedd Cymru.

Statement required under 26C.9(ii)

Both Consolidation Bills contain no provisions other than those permitted under Standing Order 26C.2.

Statement required under 26C.11

I endorse the accuracy of this Explanatory Memorandum and certify that in my view the Planning (Wales) Bill and the Planning (Consequential Provisions) (Wales) Bill are Consolidation Bills within the meaning of Standing Orders 26C.1 and 26C.2.

Julie James MS

Counsel General and Minister for Delivery
Senedd Member in Charge of the Bills

15 September 2025

This page is intentionally blank

Index required under Standing Order 26C.10

Requirements of Standing Order 26C.9		Location in Explanatory Memorandum
26C.9 (i)	Member's statement on legislative competence	Member's statements Page 5
26C.9 (ii)	Reasons for introducing the Bills	Part 1, paragraphs 14 to 20
26C.9 (iii)	Member's statement on provisions of the Bills	Member's statements Page 5
26C.9 (iv)	Tables of origins and destinations	Annexes B1 and B2 and C1 and C2
26C.9 (v)	Explanation of changes made	Annexes D1 and D2
26C.9 (vi)	Summary of intentions of each of the provisions	Annexes A1 and A2
26C.9 (vii)	Confirmation of no additional significant expenditure and best estimates of additional expenditure	Part 2, paragraph 58 and paragraphs 62 to 81
26C.9 (viii)	Potential impact on the justice system	Part 3, paragraphs 86 and 87
26C.9 (ix)	Report of the Auditor General on provisions charging expenditure on the Welsh Consolidated Fund	Not applicable (and see paragraph 59)
Requirements of Standing Order 26C.11		Location in Explanatory Memorandum
26C.11	Member's statement on accuracy of Explanatory Memorandum, and certification that both Bills are Consolidation Bills	Member's statement Page 5

This page is intentionally blank

Part 1 – Background to the Bills

Description

1. The purpose of the Planning (Wales) Bill ('the Planning Bill') is to consolidate legislation relating to planning in Wales.
2. Consolidation involves bringing together all or most of the (generally primary) legislation on a specific subject so that it can be easily found, and by modernising the form and drafting of the law to make it easier to understand and apply. Consolidation will often bring together several existing Acts on a subject, updating and harmonising the provisions, to eventually create a new, single, Act.
3. The purpose of the Planning (Consequential Provisions) (Wales) Bill ('the Consequential Provisions Bill') is to amend and repeal enactments, and make transitional and savings provisions, in connection with the Planning Bill.
4. Such consequential and transitional provisions are frequently dealt with in one or more Schedules to a Bill. However, given the provisions either have a limited lifespan in practice or will be of very limited interest to most readers of planning law, placing them in a separate Bill will leave the substantive provisions (and those that are used most frequently) in the Planning Bill free of lengthy Schedules of consequential and transitional provisions.
5. Both Bills are introduced together so they may be considered concurrently, and this Explanatory Memorandum provides information on both Bills.

The planning system in Wales

6. The planning system manages the development and use of land in the public interest, prioritising long term collective benefit, contributing to improving the economic, social, environmental and cultural well-being of Wales. It must reconcile the needs of development and conservation, secure social and economic benefits, ensure the sustainable management of natural resources and protect, promote, conserve and enhance the built and historic environment.
7. The current planning system is underpinned by a legislative framework that has its origins in the Town and Country Planning Act 1944 which was then extensively amended by the Town and Country Planning Act 1977 ('the 1977 Act'). The 1977 Act:

- entrusted local planning authorities with the preparation of development plans for their areas,
 - introduced a requirement that any form of development covered by the 1947 Act required planning permission,
 - introduced enforcement procedures to control breaches of planning control, and
 - allowed local authorities to acquire land compulsorily for planning purposes.
8. The 1947 Act also provided for the control of the display of advertisements, the making of tree preservation orders, and the listing and preservation of buildings of special architectural or historic interest.
 9. Current primary legislation, that still reflects the main principles of the planning system as set out in the 1947 Act, is contained in the Town and Country Planning Act 1990 ('the 1990 Act'), as amended by the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Planning (Wales) Act 2015 ('the 2015 Act').
 10. Alongside these Acts, there is a comprehensive series of subordinate legislation, and policy and guidance documents including Planning Policy Wales, Technical Advice Notes, Circulars and Clarification Letters¹.
 11. The system requires the preparation of development plans. Development plans are prepared at national, regional and local scales, with the three tiers together in combination comprising 'the development plan'. The content and policies of all three tiers of the development plan are strongly influenced by *Planning Policy Wales*², the comprehensive land use planning policy document for Wales. It contains policy statements on all main land uses and is therefore the foundation of all national, regional and local planning policies.
 12. The implementation of the development plan and national policies is undertaken through the consideration of planning applications within the development management system. It is based on a positive and proactive approach to shaping, considering, determining and delivering development proposals. The system is operated by the planning authority, working collaboratively with those proposing developments and other stakeholders, in the spirit of partnership and inclusiveness.

¹ [Building and planning | Topic | GOV.WALES](#)

² [Planning Policy Wales | GOV.WALES](#)

13. The planning system plays a fundamental role in people's lives. It is essential to shaping and delivering sustainable development and supporting the well-being of people across Wales. Creating places that maximise social, economic, environmental and cultural benefits and embed resilience through decision making. An effective and efficient planning system is therefore vital for Wales, with the simplification and consolidation of the law a pre-requisite to achieving this.

Reasons for introducing the Bills

14. Concerns have been raised for many years about the complexity of the law in the United Kingdom and the disorganised state of our vast and sprawling statute book. This is a problem caused, not only by the sheer volume of primary, secondary and quasi-legislation, but also because that legislation is amended, re-amended and re-made in inconsistent ways over time. This practice creates layers of legislation that may be related or interconnected in a number of different ways, making the legislative landscape difficult for users to navigate. In addition, it is now common for the law to be different in Wales, England, Scotland, and Northern Ireland. Planning legislation is no exception.
15. Efforts to deal with these complexities in the context of planning have been made before and the history of how planning law has evolved is summarised by the Law Commission for England and Wales ('the Law Commission') in paragraphs 1.12 to 1.19 of their consultation paper *Planning Law in Wales* published in November 2017³.
16. Since the last consolidation of planning law, resulting in the 1990 Act, there have been numerous piecemeal changes making the legislative framework voluminous and fragmented. The increasing divergence between the law in Wales and England has made it difficult to identify the planning law of Wales and has resulted in the law becoming inaccessible and overly complex for both operators and users of the planning system. This situation has been exacerbated by multiple pieces of amending planning reform legislation introduced by the UK Government, limited aspects of which apply to Wales.
17. The complexity of the planning statute book led to the Welsh Government requesting the Law Commission to undertake a detailed review of planning law in Wales. Their report, *Planning Law in Wales – Final Report*⁴ and the consultation informing the report identified that planning is an area of law that urgently needs attention. By clearly

³ Law Commission (2017) *Planning Law in Wales* Consultation Paper [Planning Law in Wales - Law Commission](#)

⁴ [Law Commission \(2018\) Planning Law in Wales – Final Report \(Law Com 383\)](#)

highlighting the resulting issues and difficulties for operators and users of the planning system, the Commission identified the existing legislation should be simplified and consolidated.

18. It is important that all stakeholders operating, using or engaging in the system can clearly access and understand the law directly affecting them. Difficulties or errors in the operation and interpretation of the legislation leading to the potential of legal challenge can result in delays to the delivery of sustainable development and the achievement of sustainable places for our communities. The increasing need for legal advice in order to operate, use or engage in the planning system and the resultant associated high transaction costs are also of concern. How effectively the planning system functions or communities engage with the system should not depend on whether legal advice can be obtained or afforded.
19. Accessible law is essential to the achievement of an efficient, effective and simple planning system that reflects the specific needs of Wales. Simplifying and modernising planning legislation into a consolidated and bilingual Act will produce real practical benefits to all stakeholders in the planning system – from those who operate and use it to those who wish to access the law to engage in the system, that in turn will continue to contribute to the well-being of Wales and its people. Importantly, as planning law becomes more accessible and clearer, it will enhance public participation and confidence in the system.
20. This is reinforced by the support from a variety of different sectors and interest groups to the proposals included in the two consultation exercises⁵ the Law Commission undertook to inform its report. The Law Commission’s report set out the recommended scope of the consolidation project and gave 192 detailed recommendations to simplify and consolidate planning law. The recommendations generally fall under three categories:
 - the majority comprise minor technical reforms with little or no changes in policy to aid consolidation,
 - some policy reforms that fall outside the scope of consolidation, and
 - suggested improvements to subordinate legislation and guidance.

The Welsh Government’s final response to the recommendations was issued in November 2020⁶.

⁵ Details are available at [Planning Law in Wales - Law Commission](#)

⁶ Available at: [Detailed response to the Law Commission report on planning law in Wales | GOV.WALES](#)

General approach to the Bills

21. The Planning Bill brings together legislation currently set out in a number of Acts, mainly:

- the 1990 Act,
- the Planning and Compensation Act 1991,
- the Environment Act 1995,
- the Planning and Compulsory Purchase Act 2004,
- the Planning Act 2008, and
- the 2015 Act.

A summary of the structure of the Planning Bill and its contents is set out at the beginning of the Explanatory Notes to the Bill (see Annex A1).

22. The complexity of the legislative framework for the planning system and how this has evolved over time has resulted in Acts that are not as clear and accessible as they could be. The Planning Bill is an opportunity to address these complexities by bringing related material together, modernising language, removing inconsistencies and omitting provisions that are redundant. For example, the Planning Bill has simplified the provisions dealing with minerals development by bringing together legislation from across three Acts and not restating sections of the legislation that are out of date and are no longer in use.

23. In consolidating the existing legislation every effort has been made to express legal concepts in language that is comprehensible and accessible, and that reflects current practice – both drafting and operational. This has sometimes proved to be a challenging task and has seen the replacement of some time-honoured terms. For example, the terms ‘material consideration’ has been replaced with the term ‘relevant consideration’. This is considered a more commonly understood term and has the same legal effect as “material consideration”. The terms ‘local planning authority’, ‘minerals planning authority’ and ‘hazardous substances authority’ have been replaced with ‘planning authority’. The use of ‘planning authority’ simplifies and modernises the legislation and reflects the unitary system of local government. Such changes were considered by the Law Commission in its report⁷.

⁷ Law Commission (2018) *Planning Law in Wales*, recommendations 5-2 and 5-13

24. The consolidation process has included removing or omitting provisions from the existing legislation where they are obsolete, spent or no longer of practical utility or benefit. More detail on these changes are set out in the Drafters' Notes at Annexes D1 and D2.
25. Most of the Acts being consolidated predate the devolution settlement for Wales. This means some of the rules, requirements and definitions in use are not relevant to law applying to Wales only. For example, the 1990 Act provides for mayoral and neighbourhood development orders⁸ and permission in principle⁹ that are England only provisions.
26. Additionally, some of the bodies referred to in the legislation do not reflect the institutional and constitutional arrangements applicable in Wales. The Planning Bill restates the provisions only applicable to Wales, and updates the terminology and references, making it significantly easier for users of the legislation to understand the law as it applies to them. Amongst other matters, the Consequential Provisions Bill ensures that the law applicable to England operates correctly in light of the Planning Bill.
27. Attention is also drawn to the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 that repealed certain redundant planning provisions to avoid adding to the length and complexity of the Planning Bill and the Consequential Provisions Bill. Further information on those repeals is set out in the Explanatory Notes to that Act¹⁰.
28. Also of concern is the fact that most of the primary legislation is set out in Acts of the UK Parliament. As such it is enacted in English only. Overall, there is a very little bilingual primary legislation relating to planning in Wales, the only exception being the 2015 Act, that means the law is not as accessible as it should be. This is also an obstacle to those seeking to use the Welsh language as a language of the law.
29. In addition to bringing together relevant provisions from the numerous Acts, the Planning Bill incorporates some provisions of subordinate legislation made under the Acts being consolidated, and some case law and practice that is important in understanding the operation of those Acts. Annex D1 to this Memorandum explains where material of this type has been included.

⁸ Town and Country Planning Act 1990, sections 61DA to 61Q

⁹ Town and Country Planning Act 1990, section 58A

¹⁰ See under "More Resources" at: [Legislation \(Procedure, Publication and Repeals\) \(Wales\) Act 2025](#)

30. The Government's final response to the Law Commission's report noted that further consideration was needed to be given to several of the recommendations as part of the process of preparing the consolidation Bills. This has now happened, and the Tables of Origins and Destinations (at Annexes C1 and C2) summarise where the relevant recommendations of the Commission have been given effect in the Planning Bill and Consequential Provisions Bill respectively. Annexes D1 and D2 also provide further information where necessary.
31. Additionally, the Law Commission has made further recommendations to the Welsh Ministers about specific matters that it considers would be appropriate for inclusion in this consolidation. These are set out in Annex E1 (and note also Annex E2).
32. The fact that a change was recommended in the Law Commission's report does not necessarily mean that reliance is being placed on paragraph (v) of Standing Order 26C.2¹¹, that allows a consolidation Bill to make changes in the law which the Law Commission recommends "are appropriate for inclusion within a consolidation Bill". A recommendation under paragraph (v) was sought only where the Welsh Government considered it likely that a change in either Bill could not be made under any other paragraph of Standing Order 26C.2 without such a recommendation. Annexes D1 and D2 identify the changes within the Bills that rely on a recommendation under paragraph (v).

Accessibility and codification of Welsh law

33. This consolidation is the second in a series of planned projects to consolidate the law applicable in Wales (the first being the Historic Environment (Wales) Act 2023). These projects are central to the task of making Welsh law more accessible, and they form part of the Government's *Future of Welsh Law* programme¹², as set out in the Explanatory Memorandum¹³ to the Legislation (Wales) Bill considered by the Senedd in 2019:

Ensuring the long-term accessibility of Welsh law gives rise to significant benefits for the public and private sectors in Wales and for private citizens by progressively removing the barriers to efficient and effective use of the law. It will promote greater

¹¹ [Guidance to support the operation of Standing Order 26C on Consolidation Bills: Issued by the Llywydd under Standing Order 26C.3 following consultation with the Business Committee \(senedd.wales\)](#)

¹² [The future of Welsh law: revised accessibility programme 2021 to 2026 | GOV.WALES](#)

¹³ See Table 3 (page 45) of Explanatory Memorandum to the Legislation (Wales) Bill (as revised after Stage 2) available at: [pri-ld11927-em-r-e.pdf](#) (senedd.wales)

confidence in the law for business, Government and citizens, leading to more confident and efficient decision-making across all parts of civic society and the private sector.

34. These wider benefits are expected to materialise in relation to the consolidation of planning legislation.
35. The Planning Bill once enacted, together with subordinate legislation made under it, will form part of a Code of Welsh law on planning. The significance of this status is twofold. The first is that the Welsh Government intends to publish all enactments that form part of the Code together. The second is that the Government also envisages, subject of course to the Senedd's agreement, a change to the Senedd's Standing Orders to seek to ensure that future changes to the law that forms part of a Code are made by amending or replacing the enactments rather than making different, "stand-alone", provisions that would again lead to a complex proliferation of laws.
36. The Consequential Provisions Bill is not intended to form part of the Code of Welsh law on planning. As noted above at paragraph 4 the provisions in that Bill either have a limited lifespan in practice or will be of very limited interest to most readers of planning law. The Government does not consider that the Consequential Provisions Bill would need the potential protection of the Standing Orders to avoid future fragmentation of planning law.

Consolidation of legislation passed by the Senedd or made by the Welsh Ministers

37. During the Senedd's consideration of what was then the Historic Environment (Wales) Bill, the Legislation, Justice and Constitution Committee recommended¹⁴ that where a consolidation Bill incorporated provisions from a Measure or Senedd Act, and those provisions had been changed in the consolidation, each specific occurrence should be highlighted and explained. The Government did not fully agree with this, on the basis that such legislation has the same status as other legislation being consolidated. However, the Government did agree¹⁵ that when provisions of a Measure or Senedd Act are being incorporated, this would be highlighted in the Explanatory Memorandum to a consolidation Bill.

¹⁴ See page 64 and Recommendation 4 of Legislation, Justice and Constitution Committee (December 2022) [Report on the Historic Environment \(Wales\) Bill](#)

¹⁵ See [letter from the \(then\) Counsel General](#) to the Chair of the Legislation, Justice and Constitution Committee of 18 January 2023

38. In the case of the Planning Bill, the enactments that are being consolidated consist almost entirely of Acts of the UK Parliament, but the consolidation incorporates amendments that have been made to those Acts by various Senedd Acts. In particular by the 2015 Act, the Local Government and Election (Wales) Act 2021, the Historic Environment (Wales) Act 2023 and the Infrastructure (Wales) Act 2024. It also restates a small number of free-standing provisions that were enacted in the 2015 Act.
39. As set out in the Tables of Origins to the Planning Bill (see Annex B1), in a small number of cases the restatement of a provision of primary legislation in the Bill incorporates elements of subordinate legislation made by the Welsh Ministers in order to produce a more satisfactory consolidation of the provisions in question.
40. The Consequential Provisions Bill makes amendments (including repeals) to certain Measures and Senedd Acts. These amendments are set out separately in Schedule 3 to that Bill. The main Senedd Acts that are affected are the 2015 Act, the Historic Environment (Wales) Act 2023 and the Infrastructure Act 2024. The amendments consist of:
- a. consequential amendments to ensure that other Senedd Acts interact correctly with the Planning Bill (e.g. where those other Acts currently refer to definitions given in the legislation that is being consolidated);
 - b. repeals of provisions that have made amendments to Acts of the UK Parliament that are no longer needed because their effect is reflected in the consolidation¹⁶; and
 - c. amendments to make corrections to the Historic Environment (Wales) Act 2023 or ensure that it is consistent with the Planning Bill, all of which are explained in the Drafters' Notes for the Consequential Provisions Bill.

Matters not included in the Planning Bill

41. General planning law relates to many (if not all) areas of activity, but that does not mean that legislation governing those areas should come within the scope of the consolidation of planning law. In preparing the consolidation, the general focus has been on the current existing planning law where the planning regimes established by that legislation is confined to development on land. So, for example, legislation about

¹⁶ For example, paragraphs 8 and 20(3) and (4) of Schedule 1 to the Legislation (Procedure, Publication and Repeals) (Wales) Act 2025 amend provisions that the Consequential Provisions Bill is repealing. As such, they are no longer required and are repealed by that Bill.

activities in the sea, such as the Marine and Coastal Access Act 2009 is not included in the current consolidation. Consideration has also been given to the views of the Law Commission in their report *Planning Law in Wales*.

General matters

42. When developing its proposals, the Law Commission initially took a very broad view as to the matters that could be considered “planning law”. This included the law relating to the historic environment. Whilst there is a close relationship between the law relating to planning and to the historic environment, the Senedd has already agreed that there should be a separate Code of historic environment law in Wales when it passed the Historic Environment (Wales) Bill in 2023. This current consolidation preserves that position¹⁷.
43. Further, the Government agrees with the Law Commission that the law relating to the countryside, rights of way, the environment and wildlife should not be included within a planning Code for Wales. As such these matters have not been included in the consolidation of planning law.

Felling licences

44. The consultation paper issued by the Law Commission in developing its proposals for *Planning Law in Wales* initially considered whether provisions of the Forestry Act 1967 relating to felling licences should be codified. The Planning Bill makes provision regarding tree preservation orders (TPOs) in part because these are part of the existing planning legislation but also because the powers are given to planning authorities and there is a duty on those authorities to consider using them when granting planning permission. TPOs are about preserving certain trees with amenity value. In contrast, felling licences are granted by Natural Resources Wales (NRW) and are needed for felling all trees above a certain size outside private gardens. Such licences form part of a range of forestry powers of NRW whose purposes include forest management and maintaining supplies of timber, in addition to nature conservation and amenity. As such we agree with the position ultimately taken by the Law Commission that it would not be helpful or improve the accessibility of Welsh law to move part of the forestry legislation administered by NRW into the planning legislation that is administered by planning authorities for different purposes.

¹⁷ Schedule 3 to the Consequential Provisions Bill makes a series of amendments to the 2023 Act, in the main to reflect changes being made to the 1990 Act by the Planning Bill as well as the Planning Bill itself

Hedgerow removal

45. The Country Land and Business Association responded to the Law Commission's consultation and suggested that if regulation of works to trees were included in a future consolidation of planning law, then consideration should be given to including the relevant law regulating hedgerow removal. The Hedgerow Regulations 1997, made under section 97 of the Environment Act 1995, confer functions on planning authorities. However, as the Law Commission noted¹⁸ the relevant primary legislation is very limited in extent and the Regulations are almost untouched since they were first made. The Government notes there is a connection between the law regulating hedgerow removal and planning law, due to the role of planning authorities, but like the Law Commission we believe it should not be included in a code of planning law for Wales. Instead, given the closer alignment of this subject with agriculture, countryside management, the environment and the historic environment, it would be more appropriate to consider this legislation as part of any future review or consolidation of countryside legislation.

Hazardous substances

46. The regulatory regime relating to keeping hazardous substances on land was consolidated separately in the Planning (Hazardous Substances) Act 1990. In response to the Law Commission's consultation paper, the Health and Safety Executive commented that hazardous substance consent being outside the scope of the code would not present any problems for them. The Law Commission also noted that the 1990 Act dealing with this matter "*seems to be operating broadly satisfactorily; and there seems to be no particular need to change it at present.*" The current consolidation does not include this topic, but it remains an option to create a further Act within the Planning Code at a future point, dealing with the special controls of hazardous substances.

Compulsory purchase

47. Compulsory purchase is the acquisition of land, usually by a public authority to use in the public interest, without the consent of the owner, subject to a right of compensation for dispossessed owners and occupiers. As such the general law of compulsory purchase is clearly linked to planning law, by virtue of its subject-matter. But it remains a substantial topic in its own right. The Law Commission considered that the project to consolidate planning law should not extend to the general law of compulsory purchase and compensation. However, in addition to that general law, there are a number of statutes that contain provisions enabling the acquisition of land, either using compulsory powers or by agreement, for specific purposes related to the

¹⁸ Paragraph 3.60, [Planning Law in Wales Consultation Paper](#), November 2017

subject matter of the Act in question. This is the case in relation to the 1990 Act. Parts 9 and 11 of the 1990 Act also contain a small number of provisions about the development and use of certain types of land where there has been a compulsory acquisition under other legislation. The Planning Bill consolidates those provisions, but not the general law relating to compulsory purchase.

Infrastructure

48. Development consent is the permission granted by the UK Government for major infrastructure projects over a certain threshold in both England and Wales, known as Nationally Significant Infrastructure Projects (NSIPs). This is dealt with under the Planning Act 2008 ('the 2008 Act'). Development consent in relation to certain categories of NSIPs is the subject of a reservation under Schedule 7A to the Government of Wales Act 2006.
49. The Infrastructure (Wales) Act 2024 ('the 2024 Act') establishes a single infrastructure consenting process for certain types and thresholds of devolved major infrastructure projects on land and in the territorial sea, known as "significant infrastructure projects" (SIPs).
50. The 2008 Act and 2024 Act are both large Acts that establish separate consenting regimes. Infrastructure and development consents are not planning permission, and they override the need for any other consent or planning permission from local planning authorities. They are therefore outside of the planning permission process – in other words, the main purpose of planning legislation. Further they are not regimes confined to development on land, whereas the legislation being consolidated is.
51. The Planning Bill does restate provisions of the 1990 Act relating to highways and statutory undertakers, because they deal with the implication of the development or acquisition of land pursuant to other provisions of the 1990 Act. A number of other Acts also make provisions about authorising the construction and operation of infrastructure in other fields (for example transport and energy). To the extent that those matters are within the legislative competence of the Senedd, the Government does not consider those to be part of general planning law but instead part of the subject matter of the respective Acts.

Environmental assessments

52. Part 6 of the Levelling-up and Regeneration Act 2023 ('the 2023 Act') replaces existing EU-derived powers to make regulations about "environmental impact assessments" and "strategic environmental assessments" with powers to make regulations about "environmental outcomes reports". Those regulations will apply to making plans and giving consents under the Planning Bill but will also apply in various other contexts such as transport and agriculture. Because they are general provisions that will apply to a wide range of consents and plans, not just ones under the Planning Bill, they are not included in the consolidation Bill.
53. There are also provisions in the 2023 Act relevant to planning and that apply in relation to Wales. Chapter 1 of Part 3 of that Act is concerned with the obtaining, processing and publishing of "planning data" and gives powers to the Welsh Ministers and "relevant planning authorities". However, they are only relevant to Wales so far as they relate to functions under Part 6 of the 2023 Act about environmental outcomes reports and as such have not been included.

Building standards and safety

54. The Planning Bill states that it forms part of a code of law relating to planning. It is anticipated that this code would ultimately include legislation relating to the design and construction of buildings, currently found primarily in the Building Act 1984. That legislation is not considered to form part of planning law.
55. The Government has recently introduced the Building Safety (Wales) Bill, that will make provision about the safety of certain residential buildings in connection with their occupation. As part of its further consideration of the content of a code of law relating to housing, the Government will consider whether that Bill would more appropriately form part of the code relating to planning or the code relating to housing.

Legislative competence

56. The Senedd has the legislative competence to make the provisions in the Bill pursuant to Part 4 of the Government of Wales Act 2006 as amended by the Wales Act 2017.
57. The Counsel General, as the Member in Charge of this Bill, has made a statement in accordance with Standing Order 26C.9(i) – see page 5 of this Explanatory Memorandum.

Part 2 – Additional expenditure

58. The provisions of both the Planning Bill and the Consequential Provisions Bill do not give rise to additional significant expenditure payable out of the Welsh Consolidated Fund.
59. There are no provisions in either Bill that charge expenditure on the Welsh Consolidated Fund.
60. There are some small transitional costs associated with implementing the Planning Bill, should it be passed by the Senedd and enacted. These costs have been estimated for the 18-month implementation period over 2026 to 2027, using the best available information and it is not anticipated that there will be any additional ongoing costs beyond this period.
61. In this assessment all costs have been rounded to the nearest £100.

Analysis of additional expenditure

62. Both Bills consolidate the existing legislation relating to planning in Wales, and in line with the requirements of the Senedd's Standing Order 26C.2 do not bring about policy reform of any significance¹⁹. In consequence there will be no additional significant costs associated with its operation to the Welsh Government or others.
63. The costs associated with implementing the consolidated legislation are anticipated to be staff and transitional costs for Welsh Government, local planning authorities and some private industries. These will primarily arise from time associated with producing guidance, updating websites, attending webinars and meetings.

Identified areas of additional expenditure

Welsh Government (including Planning Environment Decisions Wales)

64. The implementation of the Planning Bill contains areas of work required to ensure the law, and therefore the planning system, can continue to operate effectively on the day the Act is commenced. The majority of this is to be undertaken by the Welsh Government and includes the preparation of subordinate legislation that is required to bring the new legislation fully into effect. This includes new regulations on trees and

¹⁹ Annexes D1 and D2 to this Explanatory Memorandum set out the changes permitted under Standing Order 26C and required to be explained.

regulations making consequential amendments to existing subordinate legislation. Some may require consultation.

65. Given the volume of planning related subordinate legislation and guidance and having regard to the need to manage resources within the Planning Directorate, it is not possible to update and consolidate all of the subordinate legislation at once whilst also ensuring the Acts are commenced in a timely manner. The remaining suite of subordinate legislation will continue to be consolidated and updated after the commencement of the Planning Act, as set out in the Counsel General's annual report on progress against "The future of Welsh Law: A programme for 2021 to 2026"²⁰. This will be undertaken in a phased approach to coincide with any major policy reforms to individual instruments and will also be guided by those pieces of legislation most commonly used by practitioners. This work does not form part of this analysis of additional expenditure as it will form part of normal government business.
66. Other important areas of work that forms part of the implementation phase includes:
 - creating new guidance to support all stakeholders in understanding the Bill and how it affects them,
 - running familiarisation webinars, and
 - cancelling a Technical Advice Note on Simplified Planning Zones and a demolition direction.
67. The associated opportunity costs for this work are anticipated to be £57,400 which reflects around 38 weeks of work for a number of officials at various grades²¹.
68. Websites will also need to be updated including the Welsh Government's own website in particular the pages on building and planning and Planning Environment Decisions Wales (PEDW) own webpages. This work will include updating the published planning application forms, and various policy and guidance documents. The costs to update the Government website and guidance is anticipated to take around 13 weeks by a number of officials at different grades. This would be an opportunity cost of around £16,700.
69. The above are one-off costs that are mainly opportunity costs including staff time, design, translation and engagement with relevant stakeholders where necessary. The total cost for Welsh Government, including PEDW, is anticipated to be approximately

²⁰ [The future of Welsh law: annual report 2023 to 2024](#)

²¹ This includes officials at grades ranging between Executive Officer and Grade 7

£74,100 over the implementation period. This cost reflects around 51 weeks of work for a number of officials at various grades²².

Planning authorities

70. It is anticipated that the main costs for the 25 planning authorities in Wales will be updating downloadable application forms, templates and their websites to ensure references to the new legislation and terminology is correct. It is recognised that there is limited reference to legislation on planning authority websites and therefore it is anticipated that this will take around 4 days for a planning officer at a total cost of approximately £25,000 (£1,000 per planning authority).
71. Following recent changes to the Planning Application Wales service there will be a need for planning authorities to update their systems for processing planning applications and templates. It is anticipated that this will take around 4 days for a systems officer to complete the changes at a total cost of approximately £17,800 (£700 per planning authority, figures do not add up due to rounding.)
72. An opportunity to attend a webinar about the legislation will also be offered to all planning authorities. It is anticipated that this will be around 3 hours for a planning officer at a total cost of approximately £2,500 (£100 per planning authority).
73. The above are one-off costs that are opportunity costs including staff time. The total cost for planning authorities, is anticipated to be approximately £45,300 (£1,800 per planning authority).

Private industry and legal advice organisations

Planning consultants

74. It is unlikely that direct costs will be incurred by planning consultants as a result of the Bills. However, they will need to familiarise themselves with them to correctly inform their work for their clients. This is difficult to quantify due to exact numbers of consultancies working in Wales being unknown, the variety in the size and scale of the companies and of their systems and approaches as well as commercial confidentiality. It is anticipated that consultancies will look to attend webinars (which are likely to result in similar costs to those identified for planning authorities above) and update internal processes. They will also be able to draw upon the guidance to be published by the

²² This includes officials at grades ranging between Executive Officer and Grade 7

Welsh Government, as noted above. These are opportunity costs that will ultimately benefit the businesses in their commercial activities.

Private law firms

75. As with planning consultants, it is unlikely that direct costs will be incurred for private law firms. However, there will be an opportunity cost, as they will need to familiarise themselves with both Bills in order correctly inform their work for their clients. This is anticipated to be undertaken as part of existing internal briefing and updates and take a junior officer around 3 hours to prepare the briefing with support from the guidance to be published by the Welsh Government, as noted above. This would result in a one-off cost of approximately £57,600 for the sector²³, but will be an opportunity cost that will be of benefit for their commercial activities.

IT service providers

76. The impact of the Bill on IT service providers who provide online planning services, in particular online application portals, is based on the work undertaken for the Historic Environment (Wales) Act 2023 ('the 2023 Act'). Due to commercial confidentiality, an exact figure cannot be provided. However, an estimation, which was arrived at in discussion with an IT service provider delivering the online planning application services for Wales, has been used on the basis that the work resulting from the Bills would be around 3 times the amount of work that was undertaken for the 2023 Act. This would therefore cost around £70,200 to updating that service for those Bills.
77. By updating their forms and guidance, they will be able to provide commercial activities that are in demand therefore updating systems to reflect the latest legislation will be of benefit to them and is a commercial decision to do so. This benefit is therefore considered to outweigh these costs.
78. The total cost for private sector as a whole is therefore anticipated to be approximately £127,800.

²³ This is based on approximately 556 property / housing law firms in Wales. Source – Law Society.

Third sector

79. Third sector bodies such as Planning Aid Wales currently disseminate information on the operation of the existing legislation, so they will need to update this to reflect the changes. As noted above, the Welsh Government will be providing guidance on the changes which will support such bodies, and we therefore estimate that the burden of updating individual websites will be minimal.

Affordability assessment

80. This assessment of affordability has looked at the impact on the public sectors. This analysis of additional expenditure has identified a number of opportunity costs. This includes:

- Welsh Government – time spent by existing members of staff on activities related to the implementation of the Planning Act, and
- planning authority and advice organisations costs are focused on administrative updates to websites and documents and familiarisation of the new code of law.

Since these opportunity costs do not represent an additional financial outlay to the organisations concerned, it is considered they do not impact on affordability.

Summary

81. The transitional costs identified above come to approximately £74,100 for Welsh Government, £45,300 for planning authorities, and £127,800 for private industries totalling around £247,200 which will be spread across the implementation period (2026-2027). The identified costs for Welsh Government are one-off and opportunity costs of staff time and do not represent an additional financial outlay. The other identified costs are one-off costs that reflect normal business for those organisations or updates to commercial systems. The Planning Bill if enacted is not expected to give rise to any additional costs beyond the implementation period.

Part 3 – Impact assessments

Integrated impact assessment

82. The consolidation of planning law is one of the projects in the Government's programme to improve the accessibility of Welsh law, established under Part 1 of the Legislation (Wales) Act 2019 ('the 2019 Act'). Both the programme and the 2019 Act recognise that the nature of consolidation bills is to modernise the form and drafting of the law to make it easier to understand and apply; unlike bills that seek to reform the law, consolidation Bills do not contain policy changes.
83. The 2019 Act, the programme to improve the accessibility of Welsh law and the Historic Environment (Wales) Act 2023 were all subject to an integrated impact assessment.
84. In light of learning from conducting these impact assessments, and recognising that the assessment of the 2019 Act addressed the overarching impacts of consolidation bills, consideration has been given to whether an integrated impact assessment of the consolidation of planning law is desirable. Given the duplication of work and the fact that no new policy is being delivered through the consolidation it has been decided that an integrated impact assessment would not be undertaken.
85. It is intended that the same approach will be taken for the future consolidation of planning related subordinate legislation if the Planning Bill is passed; however, if the subordinate legislation supporting the commencement of the Bill contains new policy or proposals then an integrated impact assessment of those elements will be undertaken.

Justice impact assessment

86. The potential impacts on the justice system of the Bills have been assessed and it is considered that there is no or negligible impact on the justice system. This is due to the existing provisions relating to the planning system being restated with minimal changes to their effect and no new offences being created. Where small changes have been made, such as the removal of the option of imprisonment for some offences and changes to achieve consistency of approach across the Planning Bill or to align with current practice, we consider they result in no or negligible impact on the system. Due to the nature of the Consequential Provisions Bill, it is considered that there would be no or negligible impact on the justice system. The Ministry of Justice agrees with the assessment that there is a nil/minimal impact to the justice system of these Bills.

87. The consolidation does mean that on the rare occasions those in the justice system may need to engage with the legislation, they will need to look at different legislation, meaning they will need to familiarise themselves with it. Once this has been done the effect will be positive because (from a Welsh perspective) there will be a single, modern, bilingual Act applicable in Wales; and because (from an English perspective) the law applicable in England will be less complex as provisions within the existing legislation that apply to Wales only will be removed.