

Consultation reference: WG23314

Consultation Response Form

Frontloading the development management system

We would like your views on our proposals for the detailed operation of the pre-application processes introduced by sections 15 and 16 of the Planning (Wales) Bill. We also want your views on our proposals to use powers provided in the Planning (Wales) Bill and the Planning and Compulsory Purchase Act 2004 to place duties on statutory consultees.

Please submit your comments by 16 January 2014.

If you have any queries on this consultation, please email: planconsultations-c@wales.gsi.gov.uk or telephone 029 2082 5632.

Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response or tick the box at the end of this form. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Consultation reference: WG23314

Frontloading the development management system		
6 October 2014 – 16 January 2015		
Name	Rhian Jardine (Head of Sustainable Communities)	
Organisation	Cyfoeth Naturiol Cymru/Natural Resources Wales	
Address	Ty Cambria 29 Newport Road CARDIFF CF24 0TP	
E-mail address	Rhian.Jardine@cyfoethnaturiolcymru.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Type of development affected

Q1	Do you agree that all “major” development should be subject to pre-application consultation?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales agrees that all 'major' development should be subject to pre-application consultation. However we note that the definition of 'major' development is based on the definition provided in Article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012, (DMPO). Our response to the ‘Consultation on Planning Committees, Delegation and Joint Planning Boards’ recommends that an additional factor is developed to ensure that the definition adequately addresses projects likely to have significant effects on the environment as defined by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.				

Consultation reference: WG23314

Publicising the development proposal

Q2	Do you agree that the issue of neighbour letters and site notices should follow the guidance in Circular 32/92? If not, how should the notification process operate?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q3	Do you agree that 21 days is an appropriate timescale to allow responses to pre-application consultation?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: See response to question 5 below.				

Q4	Would LPA offices be an appropriate location for viewing a hard copy of the plans and supporting information? If not, where should hard copies of plans and supporting information be made available for public viewing?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: As some existing local authorities cover large geographical areas, and given the intention to merge local authorities which will result in most local authorities covering much larger geographical areas, a number of venues should be made available for people to view hard copies of applications and supporting information. To avoid people having to travel large distances to view plans, this could include public libraries, or for applications in more remote areas, schools in local communities. As well as hard copies, all plans should be available electronically.				

Consultation reference: WG23314

--

Consultation with “specified persons” (statutory consultees)

Q5	Do you agree that 21 days is an appropriate timescale for consultees to respond?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 NRW is concerned that 21 days to deal with pre application responses to major applications and Developments of National Significance, many of which will be accompanied by complex Environmental Reports, is insufficient to provide a substantive response to all pre application consultations. For example 21 days to respond to 10 houses in an urban area where there are no water or natural heritage designations in proximity to the site is unlikely to present any significant issues and result in a prompt response. Responding to an application for 250 houses next to a great crested newt SAC is however likely to prove much more difficult for NRW to meet a 21 day deadline.

As it is intended that a substantive response at the pre application stage will provide a better quality application, enabling speedier decision making at the application stage, sufficient time will therefore be required to enable full consideration of supporting technical information, which may include Environmental reports. We therefore suggest that a minimum of 42 days response time is allowed where an EIA is submitted in support of an application.

If this is not considered acceptable, as the amended 2014 European Parliament and Council amendments to the EU Directive 2011/92/EU - The assessment of the effects of certain public and private projects on the environment - which is required to be transposed into UK and Welsh legislation by 2017, will require a consultation period of 'no shorter than 30 days', we suggest that timescale is used as a minimum for pre application consultation responses.

In addition to the above comments, we recommend that whatever timescale is agreed should be framed as 'working days'. This will ensure that statutory consultees are allowed realistic timescales to respond to consultations and will accommodate periods such as Christmas, New Year and other Bank Holidays, which can result in significantly reduced timescales to respond to consultations.

To ensure that consultees can maximise the time allowed them for responding to consultations, all electronic versions of the applications and its supporting data should be available from day 1 of the consultation period. For large applications a number of hard copies of the supporting plans should also be made available to consultees at the start of the consultation period.

Q6	Should provision be made for a time extension	Yes		No
-----------	---	-----	--	----

Consultation reference: WG23314

	when this is agreed in writing between the developer and consultee?		Yes (subject to further comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 Yes, particularly where there are queries / omissions with the technical data that has been provided by the applicant.

 Please see response to Q5 above.

Duty on the developer to provide a pre-application consultation report (PAC)

Q7	Are there any other issues that should be included in the pre-application consultation report? If so, please identify these issues and explain why they should be included in the PAC.	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 NRW supports the contents identified for inclusion in the PAC and particularly welcome the need for the PAC to contain detail of how the comments from consultees have been taken into account. This will be particularly relevant in advising at the application stage and tracking of issues and advice given.

The pre-application enquiry form

Q8	Do you agree that the information specified in paragraph 3.4 will be sufficient to allow the LPA to respond?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 No Comment.

Consultation reference: WG23314

Maintaining records of the pre-application service

Q9	Do you agree that LPAs should maintain spatial records of pre-application enquiries?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 We agree with the proposal for LPAs to maintain spatial records of pre-application enquiries, which we consider will assist in informing planning history searches of a site and an area.

 Clarification should be provided on the document retention time at local authorities.

The LPA response

Q10	Should the written response from the LPA contain any other information?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 No comment.

Consultation reference: WG23314

Timescale for response

Q11	Do you agree that 21 days provides the LPA with sufficient time to provide a written response that meets the requirements set out in paragraph 3.10?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Meeting

Q12	Do you agree that the timescales and process for the pre-application meeting is appropriate?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Fees for the statutory pre-application service

Q13	Do you agree that the fee for the statutory pre-application service should be based on existing discretionary charges? If not, how should fees for the statutory pre-application service be calculated?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: It seems appropriate that fees are based on a cost recovery basis and on the existing discretionary charges. Although the consultation document refers to standard fees to enable LPAs to recover some of the costs of providing the pre-application service, there is no reference to standard fees for statutory consultees.7.1. The overall narrative of the Planning (Wales) Bill RIA with respect to statutory consultees (of which there are 14) is that the provisions will be cost neutral (because it will result in doing things differently). The only exception to this is the requirement to provide an annual report on the performance by NRW in providing substantive, timely, responses which is estimated to cost an additional £1050 per annum between all 14 statutory consultees. Whilst acknowledging that many of the provisions of the Bill will mean working differently - focussing on				

Consultation reference: WG23314

providing evidence and advice to ensure that strategic documents such as the NDF and SDPs enable the right development in the right place, respecting environmental limits, and on the frontloading of discussions with developers for example - it must be acknowledged that the Bill will bring in additional pressures on NRW resources. For example, it is acknowledged that the proposed introduction of a new statutory pre application service will result in additional costs to Local Planning Authorities and, consequently, it is proposed to introduce provisions for a national charge for statutory pre application discussions with Local Planning Authorities (based on a cost recovery basis). However this provision does not appear to extend to statutory consultees who will have similar pressures on resources following the introduction of the new statutory provision.

NRW would argue that statutory consultees should have similar provisions to enable a charge for statutory pre application discussions to ensure a level playing field with Local Planning Authorities.

Q14	Should householder development proposals that are submitted to the statutory pre-application service be exempt from a fee?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Substantive responses

Q15	Do you agree with our definitions of “substantive response”?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: NRW agrees with the definitions of substantive response. However, it would be helpful if the definition could include the option of referring to or using standard advice. The definition as written suggests that reference to standard advice would not constitute a substantive response. In this way it differs from Article 2 of the DMPO (England). Our experience is that there are cases where there is value, particularly at pre application, in referring to and using standard advice. We have seen other statutory consultees invest heavily in developing and providing standard advice for externally audiences enabling applicants to access this information in early and design stages of projects. We see that reference to and provision of standard advice is a key mechanism to enable NRW to focus on applications or aspects of applications where bespoke advice is needed, freeing up time to prioritise these aspects. In summary we would like to see this aspect covered as part of the definition of a substantive response.				

Consultation reference: WG23314

--

Timescales for response

Q16	Do you agree that 21 days is a reasonable timescale for statutory consultees to provide a “substantive response” to consultation requests?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Please see response to Q5 above, particularly with regard to applications with Environmental Reports and EIA.</p> <p>For pre application consultations on major applications and developments of national significance, and consultations on planning applications accompanied by EIA and Environmental reports, we suggest that statutory consultees are given 42 days to provide a substantive response to consultation requests.</p> <p>For the other consultation responses (approval of discharge of conditions, approval of reserve matters, and non material changes to planning permissions) where a substantive response is required, unless there are significant issues for European sites or with water courses etc (see response to Q 1 above) we consider that 21 days is likely to be a reasonable timescale.</p>				

Performance reports

Q17	Do you have any comments on the content of the performance report?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: We note the broad content of the performance report as set out in sections 4.21 and 4.22.</p> <p>We welcome further discussion about the content and format of these reports as it is not clear how the costs estimated in the Regulatory Impact Assessment (RIA) that accompanied the Planning Bill were derived, but if the performance reports are to be meaningful documents, we consider there has been an underestimate of the costs likely to be involved in compiling these. NRW are currently developing an integrated ICT support tool for their development planning service. Until this is implemented we have limited ability to report details beyond the number of applications we receive and the time taken to respond. As a result we need to make you aware that in order to report the detail as outlined NRW will need some lead in time to be able to meet the additional requirements as outlined.</p> <p>We would strongly encourage consideration is given to performance in terms of input or advice provided in the</p>				

Consultation reference: WG23314

quality of the final development that is constructed, or the avoidance or minimising of impacts avoided because of the responses provided by statutory consultees to applicants and LPAs. This would enable links to be made to the outcome focus of the programme for Government, specifically the Well being of Future Generations Bill goals and indicators. NRW would welcome an opportunity to discuss how performance reports could report on qualitative outputs.

Other

Q18	We have asked a number of specific questions. If you have any related queries or comments which we have not addressed, please use this space to report them.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 In summary, Natural Resources Wales welcomes the proposals to frontload the Development Management System, and consider that if taken on board by all parties in the development process, they have the potential to speed up the planning application process, improve the quality of developments and reduce environmental impacts.

Notwithstanding however, we have concerns about the detail of some of the proposals in the document, notably the 21 day timescale for all consultation responses to major developments and the resourcing of the performance report. We would welcome discussions with you on these topics.

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation response form and send it to: planconsultations-c@wales.gsi.gov.uk</p> <p>(Please include “WG213314” in the subject line).</p>
Post

Consultation reference: WG23314

Please complete the consultation form and send it to:

**Development Management Branch
Planning Division
Welsh Assembly Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-c@wales.gsi.gov.uk

or

Telephone: Alan Groves on 029 2082 5362