

Consultation Reference: WG24900

Consultation Response Form

Secondary legislation for new development management procedures

We want your views on our proposals for the detail to be provided in subordinate legislation supporting development management provisions contained in the Planning (Wales) Bill, as well as some other changes to development management legislation.

Please submit your comments by 11 September 2015.

If you have any queries on this consultation, please email: planconsultations-i@wales.gsi.gov.uk or telephone Kristian Morgan on 029 2082 3360.

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. 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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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.

Secondary legislation for new development management procedures

Date of consultation period: 12 June 2015 – 11 September 2015

Name	Rhian Jardine
Organisation	Cyfoeth Naturiol Cymru/Natural Resources Wales

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Type <i>(please select one from the following)</i>	Businesses/Planning 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"/>

2.0 Invalid Applications: Notices and Appeals

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Q1	Do you agree that a notice that an application is not valid should include criteria a) to f)?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales agrees with the inclusion of criteria a) to f) as set out in the consultation document.</p>				

Q2	Is there any information you think should accompany a notice of non-validation? If so, why is this information necessary?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales advises that where the LPA are issuing a notice of nonvalidation for consent, agreement or approval required by a condition or limitation subject to which a planning permission has been granted informed by advice received from a statutory consultee, then we feel that the advice provided by the statutory consultee should be included as essential information to accompany a notice of non-validation.</p>				

Q3	Do you agree that a period of 14 days for the applicant to submit their appeal is sufficient time given the desired quick turn around of appeals under section 29 of the Planning (Wales) Bill (the Bill)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Comments:
Natural Resources Wales consider that 14 days is a reasonable period for an applicant to submit an appeal against non-validation. In our view it strikes the right balance between the need for a quick turnaround time and the time for an applicant to consider appealing, prepare and submit their documentation.

Q4	Do you agree that the Welsh Ministers should be required to determine appeals within 21 days of the start of the appeal period?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales have no comment to make regarding this proposal.				

Q5	Where an application is considered to be invalid and an appeal submitted in respect of the notice of non-validation, do you agree that the fee should be retained by the LPA pending the outcome of that appeal?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales have no comment to make regarding this proposal.				

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3.0 Decision Notices

Q6	Do you agree that when a decision notice is revised it should include a) the date of the approval, and, b) the relevant application reference in the updated version of the notice?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales agrees with this proposal.				

Q7	Do you agree that the DMPO should be updated to require LPAs to keep a copy of the most recent decision notice on the planning register?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales agrees with the proposal.				

4.0 Notification of Development

Q8	Are there any other requirements which you think should be made of the developer in respect of the form, content or display of a notification of development?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Comments:
 Natural Resources Wales advise that a notification of development should also be displayed where a development consists of:- the provision of one or more dwellinghouses; or the provision of a building or buildings where the floor space created by the development is 100 square metres or more and is within a nationally protected area i.e. within an Area of Outstanding Natural Beauty or National Park. This would inform the local community of commencement of a development in these sensitive areas. Built development within these areas can still be significant in terms of public awareness.

5.0 Consultations etc. in Respect of Certain Applications for Approval

		Yes	Yes (subject to further comment)	No
Q9	Do you agree that LPAs shall not determine an application subject to consultation until any of the following periods have elapsed:			
	a) a period of 21 days, b) until all statutory consultees have provided a substantive response, whichever is the sooner, or c) subject to a longer period if agreed in writing between the LPA and consultee?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 The approach proposed here is supported. It provides certainty that LPAs will not be able to determine an application without the substantive response of statutory consultees being available to help inform the decision. In addition, Natural Resources Wales advise that 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', where an application is accompanied by an environmental impact assessment report. We suggest that timescale is used as a minimum where an application is subject to an EIA.

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Urgent Crown development

Q10	Do you agree that earliest time that Welsh Ministers can determine an application made under s.293A of the Town and Country Planning Act 1990 (TCPA) should remain as 14 days after giving statutory consultees notice of the application, as stated in Article 15 of the DMPO?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales adopt a risk based approach to casework. We recognise the requirement for a quick turnaround of response for urgent Crown development.</p>				

6.0 Appeal Against A Notice Issued in Respect of Land Adversely Affecting Amenity (Unightly Land)

Q11	Do you agree that appeals determined by Welsh Ministers under s.217of the TCPA should follow the same format as existing enforcement appeals?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales agree with this proposal as it will bring clarity and consistency with other appeals processes.</p>				

Q12	Do you agree that a four week period for LPAs to write their appeal statement is reasonable? If you consider an alternative period is more appropriate for s.217 appeals, please state why.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Comments:
Natural Resources Wales have no comment to make regarding this proposal.

7.0 Post Submission Amendments

Q13	<p>Do you agree that where an amendment is submitted in relation to major development applications, LPAs should be given an additional four weeks to determine the planning application?</p>	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales advise that whilst four weeks maybe sufficient time for an LPA to determine a proposed amendment for non- EIA applications, this is insufficient time for applications accompanied by an EIA. As detailed in our answer to Q9 a longer period to respond, to reflect transposition of the EIA Directive by 2017, will require a minimum of 30 days for responses to applications accompanied by an EIA.</p>				

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Q14 i)	Do you think a fee should be charged for minor material amendments to major applications which have yet to be determined?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales have no comment to make regarding this proposal.				
Q14 ii)	If yes, do you agree that £190 is an appropriate fee to charge in light of the recent consultation on planning application fees?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Natural Resources Wales have no comment to make regarding this proposal.				

8.0 Applications that fall within Section 73 of the TCPA 1990

Renewals

Should the validation requirements for a Yes

Qi)1 5	renewal application be the same as the original application? (further comment)subject to	No		Yes
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Natural Resources Wales do not consider that the validation requirements should be same for a renewal application as the original application. We advise that a proportionate approach is required for the validation of a renewal application. Where an original application was subject to an EIA then the applicant should be required to review the ES to reflect any changes of circumstances related to the development by means of the submission of further supporting information where necessary. Also this provision should apply for non-EIA applications originally subject to environmental surveys and/or supporting environmental information. Where original information is still extant and relevant, an applicant				

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should not be required to resubmit all the previous information as the LPA will already hold copies of it.

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Q15 ii)	Should the LPA have discretion over the consultation requirements for a renewal application?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales undertake a risk based approach to our casework. Whilst the majority of section 73 renewal applications may not require a response from Natural Resources Wales, where we have commented on the original application and further information has been submitted, provision should be made for a statutory consultee such as Natural Resources Wales to be reconsulted.</p>				
Q15 iii)	Should the LPA have discretion over the notification requirements for a renewal application?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales have no comment to make regarding this issue.</p>				

Minor material amendments

Should the validation requirements for a minor		Yes	Yes (subject to	No
material amendment application be the same as the original application?		Yes	further comment)	No
i)	material amendment application be the same as the original application?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Natural Resources Wales advises that whilst the validation requirements should not be the same as for the original application, it should be a requirement that an applicant updates and amends documents in support of an original application, that were subject to an ES and/or HRA process, to reflect amendments where necessary. Also where a non-EIA/HRA application is subject</p>				

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to a minor-material amendment that contained supporting environmental information, this should also be required to be updated by an applicant.

Q16 ii)	Should the LPA have discretion over the consultation requirements for a minor material amendment application?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales advise that where we have commented on the original application and further information has been submitted, provision should be made for a statutory consultee such as Natural Resources Wales to be reconsulted.</p>				
Q16 iii)	Should the LPA have discretion over the notification requirements for a minor material amendment application?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales have no comment to make regarding this issue.</p>				

Variation or removal of a condition attached to a planning permission that does not fall within the above categories (renewal and minor-material)

Q17 i)	Should the validation requirements for these applications be the same as the original application?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: As in our answer to Q16i), Natural Resources Wales advises that whilst the validation requirements for these applications should not be the same as for the</p>				

Q17 ii)	Should the LPA have discretion over the consultation requirements for these applications?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
Natural Resources Wales advise that where we have commented on the original application and further information has been submitted, provision should be made for a statutory consultee such as Natural Resources Wales to be reconsulted.

Q17 iii)	Should the LPA have discretion over the notification requirements for these applications?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
Natural Resources Wales have no comment to make regarding this proposal.

original application, it should be a requirement that an applicant updates and amends documents in support an original application, that were subject to an ES and/or HRA process, to reflect variations or removals of a condition where necessary. Also, where a non-EIA/HRA application is subject to a variation or removal of condition, that contained supporting environmental information, this should also be required to be updated by an applicant.

Q18	Should the fee to accompany an application that falls within s.73 submitted after refusal of an application under s.96A of the TCPA only be that required to make up the difference in fee cost?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: **Natural Resources Wales have no comment to make regarding this proposal.**

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9.0 Statutory pre-application service fees

Q19		Yes	Yes (subject to further comment)	No
	Do you agree that extensions of time should be permitted, subject to both the LPA and applicant agreeing in writing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales have no comment to make regarding this proposal.</p>				

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Q20	Do you agree with the level of proposed fees set out in Table 1? If not, what should the fee be?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Natural Resources Wales have no comment to make regarding this proposal.</p>				

Q21	Do you have any other comments to make regarding the statutory pre-application service?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: Natural Resources Wales is currently consulting on our fees and charges for 2016-17. This includes a number of principles which we propose to use to charge for Supplementary Planning Advice Services. This will help enable Natural Resources Wales to balance the resourcing of our statutory work and our discretionary advisory role. The consultation ends on 26th November 2015 and will inform a detailed consultation in Autumn 2016 with the aim of implementing the scheme in April 2017.</p>				

Q22	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.
<p>Comments: Natural Resources Wales has no further comments to make.</p>	

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I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-i@wales.gsi.gov.uk [Please include ‘ Secondary Legislation for DM ’ in the subject line]
Post
Please complete the consultation form and send it to: Secondary legislation for development management consultation Development Management Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-i@wales.gsi.gov.uk Telephone: Kristian Morgan on 02920 823360