

## **Report of the Head of Economic Regeneration and Planning**

**Planning Committee - 11 August 2015**

### **WELSH GOVERNMENT – DEVELOPMENT MANAGEMENT PROCEDURES CONSULTATION**

#### **1.0 Background**

1.1 The consultation paper is not seeking opinions in respect of the primary legislation included in the Bill as this has already been approved by the National Assembly for Wales, which now has Royal Assent. The Council's views are sought on secondary legislation which is summarised below.

#### **2.0 Invalid applications**

2.1 Where the Local Planning Authority (LPA) think that an application is not valid they must give the applicant formal notice to that effect. The notice must identify the requirements or information in question and the reasons why it is not valid. The applicant can appeal this notice within 14 days and the Welsh Ministers will make a determination within 24 days.

2.2 Where the appeal is allowed, the statutory determination period will run from the original date of submission.

2.3 Potential Impacts include:

- Additional time and resources taken to invalidate applications and issue decision notices
- Impact on 8 week figures where appeals are allowed as the invalid time is included.

#### **3.0 Live Decision Notices**

3.1 The Welsh Government's intention is that Decision Notices will be updated to take into account subsequent amendments or approvals (such as discharge of conditions and removal of conditions). The consultation suggests that the updated decision notice will need to be placed on the planning register.

3.2 Potential Impacts:

- Time and resources to constantly update the planning register and issue new decision notices – this may be multiple times on larger schemes where decision notices running into several pages have to be re-issued as conditions are discharged individually

#### **4.0 Developer to notify LPA on commencement of development**

4.1 Developers will have to notify LPAs of the date a development is to begin. It also requires developers to display a notice of the decision to grant planning permission at or near to the development site at all times when it is being carried out. It is intended that such notifications will only be required for major developments and developments of national significance (DNS).

4.2 Potential Impacts:

- LPA will be able to ensure that all relevant conditions are discharged prior to the commencement of development but this places burden on the Local Planning Authority,
- Only on major/ DNS schemes but could be utilised on smaller sites where it is considered that a condition to the effect would be necessary. .

#### **5.0 Substantive consultation responses within 21 days**

5.1 The consultation proposes that consultees must provide a substantive response to consultation requests within a specified time period (21 days) and that they report to the Welsh Ministers on their compliance with these requirements. This will not apply to urgent Crown developments.

5.2 Potential Impacts:

- Greater emphasis on timely responses to expedite the decision making process

#### **6.0 Appeals on S215 Notices:**

6.1 The changes transfer responsibility for determining appeals against notices, issued under section 215 in respect of land adversely affecting amenity, to the Welsh Ministers from the Magistrates' Court. Welsh Ministers will prescribe the appeal procedure and the information to be provided for the purposes of the appeal. For consistency, the appeal procedure should so far as possible be consistent with the current appeal process for enforcement appeals, whilst maintaining the existing grounds of appeal identified under section 217.

6.2 Potential Impacts:

- Expedited and more consistent approach to appeals.

#### **7.0 Post submission amendments**

7.1 Where amendments are proposed following the submission of an application, it is proposed to extend the determination period for that application by four weeks (from the date of the amendment or the end of the statutory determination period – whichever is the latest). Depending on the complexity of the post-submission amendment, additional time may be necessary to determine the application, especially if those consulted on the application and those who may be affected by the amendment, are to have the opportunity to comment on the final development proposal. A fee will be payable to cover costs of reconsidering the information.

## 7.2 Potential Impacts:

- May improve performance against statutory determination period,
- Additional fee income for the Authority for works it currently carries out,
- May deter amendments that would make a scheme acceptable and could result in increased appeals following refusals.

## 8.0 Section 73 applications (renewals, minor material amendments and variation/removal of conditions)

- 8.1 The Section 73 procedure is a useful tool which provides flexibility, but it was never designed for the wide ranging purposes that it can now be applied to. Given the changes that can be made under this section, it could be considered to place unnecessary demands on applicants to provide information to support their application or put onerous requirements on LPAs in terms of consultation/notification.
- 8.2 When a Section 73 application is submitted, the authority should already have a copy of such documents on the original application file. Given that the nature of the changes that can be made through section 73 are limited to those that are minor-material, there may be no need to resubmit any additional information with the application. Not requiring information to be resubmitted can reduce the complexity of submitting and registering applications, simplifying the process for both applicants and LPAs. LPAs have the right to request additional supporting information following the validation of the application, but only if it is considered necessary for the consideration of the application. This would allow requests for updated assessments (e.g. a transport assessment).
- 8.3 In the same manner that the information submitted with the application may be unnecessary for its determination; the changes proposed through the section 73 application may not have an impact that is sufficient to warrant further consultation. LPAs, having determined the original application and considered the issues that it raised, are going to be best placed to decide who is affected by the change and who should be consulted on an application.
- 8.4 In these circumstances, WG do not propose a blanket requirement to consult as this would create additional burden of time and cost to the LPA and consultees. For example, a change to road layout in the centre of an unfinished housing estate may only impact upon the highway authority. In this instance, if LPAs have discretion over the consultation requirements, unnecessary consultation can be avoided and the highway authority would form the sole consultee in this example.
- 8.5 Carrying out the same notification of the public as the original application may create unnecessary work, resulting in people notified of applications where the change has no impact upon them – which could cause confusion and misunderstanding over the application. Providing discretion to the LPA over who is notified would allow for a more targeted approach to this process. However general notification on applications would continue through the community council and the use of site notices.

## 8.6 Potential Impacts:

- Reduce amount of information submitted – will require links back to original application for members of the public to access all information which would be offset by the reduced administrative burden for the LPA in the scanning/ saving unnecessary documentation,
- Reduced burden on LPA in terms of consultations/ neighbour notification requirements – no requirement to advertise in press will result in savings,
- Reliance on site notices for general members of the public to be informed of changes.

## 9.0 Proposed fees for pre-application advice

9.1 The Bill introduces new pre-application processes that will be key to the delivery of effective frontloading. Responses will be expected within 21 days. WG consider that LPAs should be able to recover the cost of providing a statutory pre-application service. However, they recognise that it is important to ensure that fees do not discourage prospective applicants from engaging with LPAs at the pre-application stage. Proposed fees are: £25 for householders, £100 for minor development (e.g. 1-9 dwellings), £300 for major development (e.g. 10-24 dwellings), £600 for large major (e.g. 25 dwellings plus) and £1,000 for DNS pre-apps.

## 9.2 Potential Impacts

- Reduced fees for pre-application advice based on the Authority's current fee schedule,
- Resource issues regarding responding to major/ large major/ DNS pre-apps within 21 days.

## 10.0 Recommendation

10.1 It is recommended that the content of the consultation response set out in Appendix A be approved

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