

## Report of the Head of Economic Regeneration and Planning

Planning Committee - 11 August 2015

### WELSH GOVERNMENT – DEVELOPMENTS OF NATIONAL SIGNIFICANCE CONSULTATION

#### 1.0 Background

- 1.1 As Members will be aware, the Welsh Government (WG) set out in the 'Positive Planning' consultation document that they want a planning system that enables appropriate development.
- 1.2 On average, 23,000 planning applications per year are submitted in Wales. The Positive Planning consultation paper acknowledged that the planning system does not always determine those applications in a smart way, often adopting a 'one size fits all' approach, irrespective of the potential benefits and impacts that a development may bring. In response, Welsh Government have introduced measures which will ensure that planning applications are determined in a proportionate way, dependent on their likely benefits and impacts.
- 1.3 Their evidence also highlights concerns about Local Planning Authority (LPA) ability to make timely decisions on some of the most challenging applications, including those that raise complex technical issues and are of a contentious nature. Some of these applications already fall to the Welsh Ministers to decide, either as a result of being called in, or on appeal following refusal by the LPA.
- 1.4 Therefore, the Bill proposes a new category of development called **Developments of National Significance** ("DNS"). These are developments which are few in number but of greatest significance to Wales because of their potential benefits and impacts. They will invariably be infrastructure projects (such as significant railways, airports, reservoirs and waste water treatment plants) and onshore energy generation projects between 25MW and 50MW. The relevant thresholds are included in Annex A of this report.
- 1.5 In this respect WG research has established that there were 107 infrastructure applications of this nature submitted to LPAs across Wales between April 2005 to October 2013.
- 1.6 The Planning (Wales) Bill has already established that applications for specific projects identified by the National Development Framework for Wales would be made directly to the Welsh Ministers under the DNS process. Such proposals are of national significance by virtue of their designation in the national tier of planning policy and by their strategic nature. There are, however, likely to be projects which are not identified within the NDF which have strategic or national importance. It is essential, therefore, that a set of thresholds and criteria identify those projects is identified for them to be captured as DNS.

## **2.0 Summary of consultation document:**

### **2.1 The Bill makes provision, amongst others:**

- for the Welsh Ministers to specify what proposed development constitutes DNS, either through individual designation within the National Development Framework (“NDF”) for Wales or by meeting particular criteria and thresholds prescribed in regulations, and for DNS applications to be made directly to the Welsh Ministers rather than the LPA as is the current situation (These thresholds are intended to remain under constant review and are included in Annex A);
- requiring any person who proposes to make an application for DNS to notify the Welsh Ministers and the LPA of their intention to do so;
- for the Welsh Ministers to place an obligation on developers to undertake pre-application consultation with the community and statutory consultees in accordance with prescribed steps, prior to the submission of an application for DNS;
- enabling developers to submit, for the consideration of the Welsh Ministers, a number of consents which are connected to the principal application for DNS from a prescribed list (included in Annex B);
- for the Welsh Ministers to prescribe the procedure associated with the submission, consideration and determination of an application for DNS;
- requiring that LPAs submit a Local Impact Report to the Welsh Ministers for consideration and for the Welsh Ministers to detail the matters that may be contained within it;
- for the Welsh Ministers to confer functions upon appointed persons to exercise functions in relation to DNS applications. WG propose that PINS will be those appointed persons.
- setting the timescale at 36 weeks in which decisions on DNS applications must be reached; and
- for the Welsh Ministers to make provision in relation to fees for DNS applications.

2.2 The WG state that the purpose of the legislation is to provide more certainty and rigour in the decision-making process for planning applications determined under this particular category. Comments are sought on the specifics of the above.

### **3.0 Impact on the Local Planning Authority (LPA):**

3.1 In terms of the impact this will have on the Local Planning Authority, this will result in a marginal reduction in applications being considered by the Local Planning Authority (and a resultant reduction in fee income), although it is acknowledged that there are not a significant number of these types of application submitted to the LPA on an annual basis due to their size/ nature/ scale. Applicants will also be able to submit some secondary consents directly to Welsh Ministers along with DNS applications (listed in Annex 2).

- 3.2 LPAs will be involved at pre-application stage and will provide local guidance and advice on planning history, constraints, planning policies, likely mitigation/ conditions and who in the local community should be consulted. The Welsh Government proposes the introduction of a standard fee payable to LPAs for providing this service (this is currently proposed as £1,000). LPAs will also be expected to start negotiating on potential S106 agreements at this stage. Developers will also have to consult with the local community via site notices and press notices and make proposals available for comment to the local community.
- 3.3 Once an application is submitted to the Welsh Ministers, LPAs will have input into neighbour consultation, notification of Community Councils, the placement of notices in the local press and will be expected to put up site notices.
- 3.4 LPAs will also have to submit Local Impact Reports (LIR) setting out local knowledge/ evidence of the likely impacts of a development. The LIR is intended to be a technical and factual document which contains information relating to the development and its impact on the area it is situated in. It is open to Council or individual Councillors to express their views separately as representations in response to third party consultation, and will be treated as such. LPAs can also voluntarily submit an LPA on an application in a neighbouring county.
- 3.5 The LIR must be provided within 5 weeks. It is intended that the LPA receives a fee for meeting the statutory requirement to provide a LIR (this will not apply in the case of voluntary LIRs). The Welsh Government expect this fee to cover other requirements associated with an application for DNS such as the costs associated with our role in publicising the application and administering the planning register.
- 3.6 In circumstances where a LPA does not comply with the notice to provide a LIR within the deadline given, or the LIR does not meet all the minimum requirements, it is proposed that LPAs do not receive their portion of the application fee (but will still be required to submit a LIR).
- 3.7 The Planning Inspectorate (who will operate the day-to-day running of the service) will determine the procedure for the examination (written reps, appeal or inquiry). Once the examination of an application has been completed, PINS will compile a report for the consideration of the Welsh Ministers, who will determine the application.
- 3.8 The Welsh Government considers that LPAs are best placed to monitor approved schemes due to their presence in the local community. Should the Welsh Ministers give consent to a development qualifying as DNS, the LPA will handle applications for;
  - The removal or variation of conditions (which are not related to the extension of time limit or renewal of a permission);
  - Minor material amendments;
  - Non-material amendments; and
  - The discharge of conditions.
- 3.9 The Welsh Government proposes that LPAs retain responsibility for the enforcement of schemes for Development of National Significance. Hence, upon approval of a DNS application, developers will be required give notice of the commencement of development to the LPA. There is a logistical advantage to retaining the enforcement function within the LPA as they have the necessary skills and local knowledge to ascertain whether any breaches have occurred.

#### **4.0 Recommendation**

4.1 It is recommended that the content of the consultation response set out in Appendix C be approved.

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