

Consultation reference: WG25023

~~XXXXXX~~ Consultation Response Form

Developments of National Significance

We are seeking your views on detailed proposals to establish a new system for the Welsh Ministers to process 'Developments of National Significance' ("DNS"). This is a new category of planning applications.

Please submit your comments by 12/08/2015.

If you have any queries on this consultation, please email:
planconsultations-g@wales.gsi.gov.uk or telephone Lewis Thomas on 029 2082 3201.

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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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

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Developments of National Significance		
Date of consultation period: 20/05/2015 – 12/08/2015		
Name		
Organisation	City and County of Swansea	
Address		
E-mail address		
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 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"/>

Q1	Do you agree with the proposed thresholds and categories of development set out in the above table? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>I would query why “unconventional oil and gas development” has not been included as a category given that the recent notification direction whereby applications recommended for approval have to be notified to Welsh Ministers. The supporting document states that the rationale is to speed up the decision making process for applications that often get made at WG level and this would appear to be an obvious category for inclusion in some form.</p> <p>In addition, some of the thresholds (such as passenger capacity for airports or population equivalent for waste water treatment) would appear difficult to quantify objectively prior to submission and could change at any time thereafter and exceed the original threshold.</p>				

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Q2	Do you agree with this proposed approach for determining secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Seems logical and there are benefits to the approach.				

Q3	Do you agree that the Inspector may determine procedure for secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The Inspector would appear best placed to consider what other applications should form part of the proposal, however the view of the Local Planning Authority should be sought before a decision is made to ensure local views/ issues pertinent to the decision may be raised/ considered.				

Q4	Do you agree with the proposed list of secondary consents? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with the minimum requirements for the notification of a DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The minimum requirements need to include an indication of the likely impacts, whether this is within the EIA Statement or not to enable careful consideration.</p>				

Q6	Is 12 months from the date of acceptance of the notification to the submission of the application for DNS a sufficient period in which the notification of a DNS remains valid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: It's not entirely clear what the purpose of this requirement is and 12 months appears to be an arbitrary time limit. Delays could arise as a result of information raised as part of the consultation period where further survey work is required that can only be carried out at a certain time of year. It would seem more reasonable to provide 24 months to allow sufficient time for consultation, further consultation of plans are revised and allow for the scheme to be amended to facilitate a submission.</p>				

Q7	Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The list in general would appear suitably comprehensive. However, the requirement to publish notices in a local newspaper is questionable (the same for general applications) given the decline in newspaper sales. May be preferable/ easier to put a notice on the Local Planning Authority's website or via their social media platforms.</p>				

Q8	Do you agree with our proposals for the advertisement of an application for DNS? If not, why not?	Yes	Yes (subject to comment)	No
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		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with our proposals regarding statements of common ground? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q10	Do you consider that 5 weeks is an appropriate period within which statutory consultees and third parties must submit their full representations in response to an application for DNS? If not, please specify an alternative timeframe?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q11	Do you agree with our proposals for the amendment of schemes for DNS? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Applicants should be given the opportunity to amend proposals and whilst it is at the discretion of the Inspector, the Local Planning Authority should be given the opportunity to comment on whether amendments should be accepted as well.				

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Q12	Do you agree that 10 working days following the closure of the representation period is an appropriate time in which the Planning Inspectorate must determine the appropriate procedure to examine an application for DNS? If not, please specify an alternative timeframe.	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree that further representations required as part of the examination of an application for DNS should be subject to a word limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Essentially, any further representations should be long enough to adequately cover the topic and respond to queries raised. Therefore, for this to work in practice, the Inspector will have to be very focussed with their question, otherwise the request for additional comments will be of limited use. Further information should aid the decision, however long the submission is.				

Q14	Do you agree that the applicant is only required to submit paper copies of applications for DNS with the Planning Inspectorate and LPA(s) within which the DNS is located? If not, why not?	Yes	Yes (subject to comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

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Q15	Do you agree with the minimum requirements for Local Impact Reports? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The LIR should also include recognised site constraints as well as Local Planning Authorities may have information that is pertinent to the decision making process that is not publically available.</p> <p>With regards to evidence that the application has been advertised in accordance with the legislation, given that LPAs are only expected to put up Site Notices, it is assumed that a photograph(s) of site notices in situ would suffice.</p>				

Q16	Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? If not, please suggest appropriate timescales.	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>5 weeks would be insufficient time for a Local Planning Authority to respond as we would be required to undertake internal consultation and consider all aspects of an application before responding. When considering the possible local importance/ impacts of a development of national significance, it is highly likely that Members would wish to have the opportunity to comment on the response on behalf of the LPA. With Planning Committees every 4-5weeks, a longer period would be required in order to report the application and responses to committee prior to the LPA issuing its Local Impact Report. 8 weeks would be more acceptable. In addition, it seems perverse that PINS have 4-6 weeks just to validate an application (and it can be extended where necessary), whereas statutory consultees could have less time to review the necessary information and respond. The system builds time in for PINS and the Welsh Ministers throughout but isn't equitable to LPAs.</p>				

Q17	Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh	Yes	Yes (subject to comment)	No

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	Ministers' (and their appointed representative, the Planning Inspectorate) costs in carrying out the work? If not, why not?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q18	Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: There should be a minimum fee for a LIR, but the overall fee should be based on the complexity of the application having consideration of the likely issues that will arise and the specialist input required. PINS will be charging by time due, so LPAs should also be allowed further fees based on the submission.				

Q19	Do you agree that the LPA should receive a reduced payment, or no payment, if they do not submit the Local Impact Report within the timescale and minimum requirements? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The WG's insistence on financial penalties for what it considers to be poor performance is extremely short-sighted and will result in poor outcomes for planning in Wales one way or another. Local Authorities are increasingly under more pressure to determine applications that are becoming increasingly complex with reduced times/ resources due to the current economic climate. Yet it is considered that removing fees further will somehow improve performance. This proposal could have the opposite effect and a reduction in the quality of information reported back to the WG. The whole aim is to improve, aid and inform the decision making process and this may, on occasion, take longer than the recommended timeframe to respond (which is already proposed to be of short duration). LPAs should not be penalised for this. When considering fees, the document suggests that refunds will not be provided for an invalid DNS application as work will already have been carried out by PINS. But the same rationale does not apply with regards to this proposal as LPAs will still have undertaken work. The rationale that no fee is payable if no LIR is submitted at all is logical. However, if it is submitted late the fee should be payable as works will have been undertaken.				

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The document states that the WM's will have 36 weeks to determine an application. On the basis of the above penalties, it can only be assumed that the fee would be refunded if the decision goes beyond this period?

Q20	Do you agree that the applicant should not receive a full refund if their application is invalid? If not, why not?	Yes	Yes (subject to comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 It would be inconsistent with current planning legislation and fees guidance. Local Planning Authorities currently have to undertake what can sometimes be a significant amount of work just to get an application valid. However sometimes, an applicant cannot submit the necessary information and the application is subsequently returned along with the full fee (and there is also a cost associated with returning the fee). This issue has not been addressed by the WG for LPAs dealing with invalid applications, but is recommended for these applications. The proposed legislation would result in further divergence between the general system that LPAs have to adhere to and the new approach which only benefits the Welsh Ministers. If this is introduced, should validation costs not be incumbent on the applicant for all planning applications?

Q21	Do you have any further comments to make in relation to our proposals for DNS?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 With regards to pre-application enquiries, it is not entirely clear that the applicant has to apply to both PINS and the LPA (although it is intimated in the S106 section)? It should be clarified that pre-app with the LPA is mandatory for all DNS applications.

 Will LPAs have to appear at Inquiries? And if so, will they receive a fee for preparation of information and attendance? There's no reference of cost recovery for LPAs. Without this payment the LPA would have to draw on existing resources, which may have an unintended and negative impact on other planning work carried out the LPA.

 Time limits involved - WG get 36 weeks to determine an application - what is the recourse if this deadline is missed? No right of appeal so statutory time limit is

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essentially meaningless. Or would the fee be refunded if it exceeds this timeframe given what has been suggested for LPAs?

In conclusion and as a final point, I would query the overall timescales involved given that there would be 4-6 weeks just to validate an application. Whilst it is appreciated that there can be a significant amount of work involved, 6 weeks is extremely generous in an "expedited system". Similarly, the Welsh Ministers will have all of the information before them, all consultation responses and the Inspectors report. A decision should therefore be forthcoming significantly before 12 weeks. LPAs are criticised for slow decisions on applications where information and opinions need to be sought which takes time. Ministers will have all of this information which should result in a quick turnaround.

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

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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-g@wales.gsi.gov.uk Please include 'Developments of National Significance - WG 25023' in the subject line.
Post
Please complete the consultation form and send it to: Developments of National Significance Consultation Decisions Branch Planning Directorate Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please: email: planconsultations-g@wales.gsi.gov.uk ; or telephone: Lewis Thomas on 029 2082 3201