

Report of the Head of Economic Regeneration and Planning

Planning Committee – 13 October 2015

WELSH GOVERNMENT CONSULTATION – SECONDARY LEGISLATION: STATUTORY CONSULTEES/DESIGN AND ACCESS STATEMENTS/HOUSES IN MULTIPLE OCCUPATION

1.0 Background

- 1.1 The Planning (Wales) Act 2015 came into force on the 6th July 2015 and the Welsh Government (WG) are currently in the process of consulting a range of related secondary legislation as part of its agenda to provide a more effective Welsh planning system which facilitates appropriate development.
- 1.2 This current consultation, therefore, aims to:
- update the consultation thresholds for statutory consultees in the General Development Management Procedure Order 2012 (DMPWO),
 - reduce the scope/content of Design and Access Statements and reduce the amount of applications that they will be required for,
 - amend the Town and Country Planning (Use Classes) Order 1987 to create a new use class for small Houses in Multiple Occupation (HMOs) and related amendments to the Town and Country Planning (General Permitted Development) Order 1995. The aim of this proposal is to allow local authorities the opportunity to consider the impacts of small HMOs on the local area through the submission of a planning application.

The Authority's draft response to this consultation is provided at Appendix A.

2.0 Consultation Thresholds:

- 2.1 When applications meet certain thresholds, the Local Planning Authority (LPA) are statutorily required to consult with certain bodies, for example, when an application includes the laying out of a new road, the LPA are required to consult with the Highways Authority.
- 2.2 Discussions with statutory consultees have suggested that consultation thresholds should be amended in respect of four bodies, so that the consultation requests they receive better reflect their available skills and expertise. Water and sewerage undertakers (WASU) operating in Wales are also becoming new statutory consultees and so relevant consultation thresholds are also proposed in this respect.
- 2.3 The amendments are intended to either increase or decrease the number of applications referred to each consultee. In some instances the amendments to the DMPWO will result in fewer consultations with a statutory consultee and thus allow them to redirect resources to focus on high priority planning applications. The provision of standing advice for lower risk proposals will ensure that LPAs are still able to make informed decisions.

- 2.4 Alternatively, some bodies would have an amended consultation threshold to attain input on a greater range of applications. This may be due to a change in their role or remit, or the lack of clarity of the existing threshold definitions to inform LPAs on when to consult.
- 2.5 Changes are proposed for the Coal Authority, CADW, the Theatres Trust and Natural Resources Wales. The LPA are generally supportive of this approach to clarify roles and responsibilities subject to some further comment which are referenced at Appendix A.

3.0 Design and Access Statements:

- 3.1 Design and Access Statements (DAS) were introduced in 2009 as a communication tool to explain how both good and inclusive design principles have been considered and applied from the outset of the development process and how they will be achieved. However, a WG commissioned report found key criticisms of DAS, such as perceptions regarding the process and additional costs, and recommended that the scope and content of DAS should be clarified in order to speed up and improve the validation of planning applications.
- 3.2 As a result, the WG have proposed changes that would result in DAS only being required for major planning applications (excluding minerals and waste development). Major developments have the greatest impact on both their immediate area and wider surroundings, therefore, a DAS provides an important way for developers to clearly communicate the design and access considerations to the LPA, the public and those making comments on planning applications to enable them to assess the application in an informed manner. S73 applications (developing land without compliance with a condition) would be excluded from the requirement to submit a DAS.
- 3.3 Applications for Listed Building Consent would still require a DAS (required under different legislation) and the consultation also proposes DAS with lower thresholds (e.g. one or more dwelling) for development within Conservation Areas and in World Heritage Areas. Whilst this is welcomed, it is considered that applications impacting on Historic Parks and Gardens and the AONB should also require a DAS. Further proposals include Heritage Impact Assessments for applications to Listed Buildings, Scheduled Ancient Monuments and Conservation Area Consent.
- 3.4 It is also proposed to simplify the content and structure of Design and Access Statements. Whilst this approach is supported it is considered that there still needs to be a contextual and character analysis undertaken and that developers should fully justify their proposal.

4.0 Houses in Multiple Occupation:

- 4.1 High concentrations of HMO's can lead to substantial changes and problems in particular locations for the settled communities as the nature of a neighbourhood can change. Issues and problems relating to HMOs can manifest themselves in many different ways, such as increased waste, noise nuisance and disturbance.

- 4.2 Concerns have been raised about the problems associated with concentrations of HMOs in parts of Wales, including within Swansea, and their effect on local communities, particularly within the Uplands, Castle and St Thomas Wards. As a result there have been calls for a change to planning regulations to enable local authorities to more effectively manage the use of properties as HMOs.
- 4.3 WG research has, therefore, recommended changes to the Town and Country Planning (Use Classes) Order 1987 to enable local authorities to manage future growth of HMO concentrations. Any change to the Use Classes Order would not be retrospective and therefore the research recognised that it would not lead to any immediate change in communities affected by HMO concentrations. However, as indicated, it would mean that a local authority would have the opportunity to manage the future growth of HMOs, both in existing high concentration areas and to prevent high concentrations occurring in other areas. Such an approach should, however, be supported by robust Development Plan policy and where necessary the introduction of Supplementary Planning Guidance.
- 4.4 The research also identified difficulties for local authority officers and property owners arising from the different definitions of an HMO for housing and planning purposes. This can result, for example, in a licence being required for a proposed HMO, but not planning permission.
- 4.5 The WG are proposing to amend the Town and Country Planning (Use Classes) Order 1987 by introducing a new use Class C4 (houses in multiple occupation occupied by not more than six residents). The definition of HMO's used for planning purposes will align with that used in the Housing Act 2004. Permitted development rights will also be amended to allow a HMO to be converted to a dwelling without requiring planning permission.
- 4.6 This proposal would increase the number of new HMOs which require planning permission, allowing LPA's the opportunity to consider the impacts of proposed new HMOs. Local authorities will be able to adopt local policies to control the density and spread of this type of housing.
- 4.7 This approach is, therefore, welcomed as the most straightforward way to control issues surrounding HMO's in Swansea, however, it should be recognised that to be successful the proposed amendments to the Town and Country Planning (Use Classes) Order 1987 must be supported by robust Development Plan policy and where appropriate Supplementary Planning Guidance.

5.0 RECOMMENDATION

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

Background papers:

Welsh Government Consultation Document - Proposed amendments to secondary legislation for development management covering: Statutory Consultees, Design and Access Statements and Houses in Multiple Occupation – 3 August 2015 - <http://gov.wales/docs/desh/consultation/150803-further-secondary-legislation-for-development-management-en.pdf>

Contact Officer: Ryan Thomas
Date of 4th October 2015
Production:

Extension No: 5731
Document Name: WG Consult - Secondary legislation: Statutory consultees/design and access statements/houses in multiple occupation