

Consultation reference: WG23275

Annex 1 - Consultation Response Form

Planning and Related Decisions of the Welsh Ministers

We want your views on our proposals which make changes to the way decisions on planning and related applications and appeals are dealt with, where they are referred to the Welsh Ministers, or the Planning Inspectorate acting on their behalf.

Please submit your comments by 30/01/2015.

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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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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Date of consultation period: 07/11/2014 – 30/01/2015		
Name	Rhian Jardine (Head of Sustainable Communities)	
Organisation	Natural Resources Wales	
Address	Ty Cambria 29 Newport Road CARDIFF CF24 0TP	
E-mail address	Rhian.jardine@cyfoethnaturiolcymru.gov.uk	
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 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"/>

Q1	Do you agree that appeals against the refusal of, and conditions relating to, consents to display an advertisement should be incorporated within an expedited appeal system as part of the Commercial Appeals Service (CAS)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 No comment.

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Q2	Do you agree that the Welsh Ministers should apply section 195 of the Planning Act 2008 in Wales (which amends section 266(1) of the Town and Country Planning Act 1990) so that the default position for the determination of called in applications and appeals by statutory undertakers is that they are dealt with solely by the Welsh Ministers, unless the Welsh Ministers or the relevant Secretary of State gives direction for them to be dealt with jointly?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 NRW support the default position for determination of called in applications and appeals by statutory undertakers to be dealt with by Welsh Ministers. This will reduce expense for statutory undertakers when applying for planning permission.

Q3	Do you agree with the 4 week timescale proposed for the dual-jurisdiction of non-determination appeals? If not, please suggest alternative timescales with your reasons.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 NRW consider that there should not be a 4 week timescale proposed for the dual-jurisdiction of non-determined appeals. There is a risk of aborted work being undertaken by interested parties on appeals should a decision be taken by a Local Planning Authority to approve a planning application. This is because appeals require the collation and submission of documents to strict timetables, depending on the appeal procedure. We advise that if a dual-jurisdiction period is implemented then amendments to the respective appeals timetable should be made to enable documents to not be required to be submitted until after the dual jurisdiction period ends or when a decision of refusal is issued by a Local Planning Authority.

Q4	Is there any other comment you wish to make in relation to these changes to appeals against non-determination?
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Comments:
 NRW consider that there should be an explanation regarding whether these these new provisions only apply to planning applications determined within an 8 week period. We suggest that the guidance should clarify whether applications accompanied by an Environmental Statement ,which have a 16 week determination period, are subject to the same provision.

 NRW consider that a mechanism should be in place to notify a statutory consultee when an appeal against non-determination has been received, and that a notification to a statutory consultee should be sent out setting out when the period of dual jurisdiction ends after the start date of the appeal. This would enable interested parties to

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be aware of the appeal dual-jurisdiction process deadlines. However, NRW do consider that there is scope here for aborted work to take place by interested parties where a decision is issued by the LPA within the 4 week timescale as the appeal process requires work to start on appeal documents straight away.

We consider that there should be an explanation regarding whether the proposed dual jurisdiction period would apply to all types of appeal i.e. written representations, hearings and public inquiry. Each appeal procedure varies according to the complexity of the proposal. As discussed above, NRW consider that there is the risk of aborted work for interested parties where work may start on an appeal by interested parties only then to find an application has been determined within the dual jurisdiction period by the Local Planning Authority. We consider that as the various appeal procedures have fixed timetables, where certain documents have to be produced at the outset or during an early part of an appeal, that some consideration be given about revising the appeal procedures timetable to not require as early submission of these documents during the dual-jurisdiction period. We suggest a potential remedy could be to require interested parties to submit the first tranche of appeals documents just after the dual jurisdiction period ends or when a decision notice for refusal is issued. This could avoid aborted work if a decision is made by a Local Planning Authority during the dual jurisdiction period.

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Q5	Do you agree that the Planning Inspectorate should be given authority to determine listed building consent and listed building enforcement appeals in relation to Grade I and II* listed buildings in line with current procedures for Grade II listed buildings?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Q6	Do you agree that the Planning Inspectorate should be given authority to determine appeals for which grants have been made by the Welsh Ministers under section 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Q7	Do you agree that the Planning Inspectorate should be given authority to determine appeals against the determination of conditions attached to minerals permissions, made under paragraphs 11(1) of Schedule 13 and paragraph 9(1) of Schedule 14 to the Environment Act 1995?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Q8	Do you agree that the Planning Inspectorate should be given authority to determine appeals against decisions or failure to take decisions under section 21 of the Planning (Hazardous Substances) Act 1990?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Q9	Do you agree that the Planning Inspectorate should be given authority to determine appeals under section 208 of the Town and Country Planning Act 1990 against section 207 notices for the replacement of trees?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Q10	Are there any additional comments you wish to make in relation to these changes to the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997?
Comments: No comment.	

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-g@wales.gsi.gov.uk Please include 'Planning and Related Decisions of the Welsh Ministers - WG 23275' in the subject line.
Post
Please complete the consultation form and send it to: Planning and Related Decisions of the Welsh Ministers Consultation Decisions Branch Planning Division Welsh Assembly Government Cathays Park Cardiff CF10 3 NQ
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