

**Article 1 of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 :**

**Guidance on Pre-application Consultation**

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**ADVICE FOR DEVELOPERS**

**Requirement for pre-application consultation**

1. The requirement to undertake pre-application consultation applies to all planning applications for “major”<sup>1</sup> development (full or outline) and applications for Developments of National Significance (DNS).
2. The requirement does not apply to proposed applications under section 73 or 73A of the Town and Country Planning Act 1990 (“the 1990 Act”); reserved matters; non-material amendments or minor material amendments.

**Publicity before applying for planning permission**

3. The developer must undertake the following publicity/consultation procedures.

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| <ul style="list-style-type: none"><li>• <b>Display a site notice in at least one place on or near the land to which the proposed application relates for a period of no less than</b></li></ul> |
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<sup>1</sup> “Major” development, as defined in article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO).

## **28 days before submitting an application for the proposed development**

4. 28 days is the minimum period that developers must allow for representations to be made in response to the site notice.
5. Developers have flexibility to consider a longer period.
6. When erecting a site notice, the developer should follow the advice below, which is adapted from the principles set out in Circular 32/92 (“Publicity for planning applications”)<sup>2</sup>.
7. Site notices should be displayed on or near the site. They should be visible and legible to anyone passing by without the need to enter the site to read. A large site, bounded by several roads and footpaths, or with more than one frontage will normally require more than one notice.
8. The site notice is required to contain all the information set out in the form contained in Schedule 1B to the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (“the 2016 Order”). A Welsh language version of the form is provided in the Welsh version of the Order.
9. Providing developers have taken reasonable steps to protect the site notice and, if needs be, replace it if it is removed, obscured or defaced before the end of the 28 day publicity period, then the developer will be considered to have complied with their statutory duties.

### **• Write to “any owner or occupier of any land adjoining the land to which the proposed application relates”**

10. “Major development” covers a range of development types and the number of adjoining owners or occupiers that should be notified of development proposals will vary depending on site context.
11. Developers will need to make a judgement on a case-by-case basis on who comprises adjoining owners and occupiers, as LPAs already do when publicising planning applications. In doing so developers should bear in mind the benefits of maximising publicity at pre-application stage.
12. Letters should be addressed to “the owner and/or occupier” of land adjoining the site. The letter is required to contain all the information set out in the form contained in Schedule 1B to the 2016 Order. In considering the format of a letter developers are reminded that English and Welsh are both official languages and should be treated equally.

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<sup>2</sup> [Circular 32/92](#)

13. The letter must identify that there is a minimum period of 28 days to allow representations to be made. Developers have flexibility to consider a longer period. The 28 day period starts from the date of service of the letter.

**• Make the draft planning application information available publically**

14. The site notice and letters are required to identify a location in the vicinity of the site where the following information will be made available:
- All information that would be required to be submitted as part of a formal planning application. This includes all the information on the relevant planning application form, except the ownership certificates.
  - Scaled plans, with north arrow, to identify the land to which the application relates
  - All other scaled plans, drawings and information that would be required to describe the proposed development – this includes any technical documents that would be needed in order to validate any subsequent application.
  - Design and Access Statement
  - Any information that would be needed in order to comply with any local validation requirements of the relevant local planning authority.
15. The information must be available for the full duration of the 28 day publicity period.

**• Consult community and specialist consultees before applying for planning permission**

16. Developers are also required to undertake pre-application consultation with “community consultees” and “specialist consultees”.
17. “Community consultees” comprise:
- Each community council (this includes both town and community councils) in whose area the proposed development would be situated; and/or
  - Each councillor (local member) representing an electoral ward in which proposed development would be situated.
18. “Specialist consultees” comprise the list of consultees in schedule 4 to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO) as amended by the 2016 Order.

**Town and Community Councils**

19. Developers are required to inform any town and community councils that are responsible for the area in which the proposed development is located. The relevant local authority will hold this information.

20. The developer must contact the relevant town and community council by e-mail or letter. The correspondence must contain the information set out in the notice in Schedule 1B to the 2016 Order.
21. Town and community councils must be provided with a minimum period of 28 days to allow representations to be made in response to the notification. Developers have flexibility to consider a longer period. The 28 day period starts from the date on which the notice is given.
22. If the proposed development is located in an area where more than one town or community council operates, both should be notified.

### **Local Members**

23. Developers are required to inform all local councillors that are responsible for the electoral ward in which the proposed development is located. The relevant local authority will be able to provide this information.
24. If the proposed development straddles a number of electoral wards, all local councilors within those wards will need to be notified by letter. The letter will need to contain the same information as provided in the site notice and neighbour letters – see Schedule 1B to the 2016 Order.
25. The information to be made available to the community consultees must be available for the full duration of the statutory 28 day period.

### **Web based material**

26. For the purposes of notification and publicity, the use of web based information can have significant advantages, in terms of speed and convenience, for both the developer and those with computer access. We recognise that, given the scale and type of “major development”, not all developers may have the technical resources to upload plans and supporting material to a website. Whilst this is not a requirement, developers are encouraged to use web based material when such technology is available.

### **Location for public viewing of plans and supporting information**

27. The developer’s notification letter is required to specify a location where plans and supporting information will be made available for public viewing.
28. In cases when the developer has made the relevant information available on a website, the location for public viewing can be a library or other public building where computer facilities are made available to the general public.

29. If the developer has not made the relevant information available on a website then a hard copy needs to be made available. Public buildings such as libraries, community centres and leisure centres would be appropriate as well as buildings used by town and community councils. The developer has flexibility on the choice of venue but it should, as a minimum, allow the public access during normal working hours for the full 28 day notification period.

### **Process for dealing with responses**

30. All comments received within the specified timescales need to be considered by the developer. There is no requirement for developers to consider representations that are received after the end of the period specified in the relevant notice.

### **Specialist consultees**

31. The developer is required to consult relevant statutory consultees that are listed in Schedule 4 to the DMPWO as amended by the 2016 Order. The developer is only required to consult a consultee listed in the table to Schedule 4 when the proposed development meets a "Description of Development" listed in column 2 of that table.
32. The consultation request from the developer to consultees must contain the information set out in the notice in Schedule 1C to the 2016 Order.
33. The developer is encouraged to provide statutory consultees with this information electronically as this is the most efficient and cost-effective method. In cases when information is posted to statutory consultees, developers should consider using recorded delivery.
34. The developer must provide the following directly to the consultee, or direct the consultee to a website which contains this information:
- All information that would be required to be submitted as part of a formal planning application. This includes all the information on the relevant planning application form, except the ownership certificates.
  - Scaled plans, with north arrow, to identify the land to which the application relates
  - All other scaled plans, drawings and information that would be required to describe the proposed development – this includes any technical documents that would be needed in order to validate any subsequent application.
  - Design and Access Statement.
  - Any information that would be needed in order to accord with any local validation requirements of the relevant local planning authority.
35. Specialist consultees must be provided with a minimum period of 28 days to allow representations to be made in response to the notification.

Developers have flexibility to consider a longer period. The 28 day period starts from the date on which the notice is given.

36. In some cases, particularly when considering more complex and technical schemes, the statutory consultee may require an extension of time to fully consider the proposed development. Developers have discretion over whether to accept an extension of time but should note that gaining a comprehensive, informed understanding of technical issues at this stage can facilitate quicker decision making at the planning application stage.

<ul style="list-style-type: none"><li>• <b>Consider if Environmental Impact Assessment (EIA) is required for the project</b></li></ul>
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37. The existing EIA regulations set out a procedure for identifying those projects which should be subject to Environmental Impact Assessment.
38. When EIA is required for a particular development proposal, the developer must submit an Environmental Statement (ES) before planning permission can be granted.
39. At pre-application stage, developers should consider whether their development proposal could potentially comprise EIA development. The Regulations make provision for the developer to seek the view of the LPA as to whether EIA is required – the screening opinion. Developers are advised to secure a screening opinion early on, before they undertake any statutory pre-application publicity and consultation.
40. If a development proposal does comprise EIA development then the developer should make available draft reports and information that would be used to form an Environmental Statement as part of the statutory pre-application process. This will assist the statutory consultees and may lead to quicker decision making on any subsequent application.

### **Duties placed on specialist consultees**

41. The consultee is required to provide a “substantive response” to the developer within the prescribed 28 day period, or within such period that has been agreed in writing with the developer. They are only under a duty to provide a substantive response when they receive a formal notice under article 2D of the DMPWO.
42. A “substantive response” is one which:
  - a) states that the specialist consultee has no comment to make;
  - b) states that the specialist consultee has no objection to the proposed development and refers the applicant to current standing advice by the specialist consultee on the subject of the consultation;

- c) advises the applicant of any concerns identified in relation to the proposed development and how these those concerns can be addressed; or
- d) advises the applicant that the specialist consultee has concerns and that it would object to an application for planning permission made in the same or substantially the same terms and sets out the reasons for those objections.

<ul style="list-style-type: none"><li>• <b>Submit a pre-application consultation report (PAC) as part of the planning application</b></li></ul>
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- 43. All planning applications for development proposals that are subject to statutory pre-application consultation must be accompanied by a pre-application consultation report in order to be valid.
- 44. The pre-application consultation report must contain:
  - a) a copy of the site notice;
  - b) a declaration that the site notice was displayed in accordance with the statutory requirements, i.e. in at least one place on or near the development site for no less than 28 days;
  - c) a copy of the notice given to owners and occupiers of adjoining land;
  - d) copies of all notices provided to councillors, town and community councils, and specialist consultees;
  - e) a summary of all issues raised in response to the statutory publicity (i.e. site notice and letters to owners, occupiers) – the developer must confirm whether the issues raised have been addressed and, if so, how they have been addressed; and
  - f) copies of all responses received from specialist consultees with an explanation of how each response has been addressed by the developer.
- 45. The developer has flexibility to determine the most effective way to present the pre-application community consultation report providing the points in (a) to (f) of paragraph 44 are addressed. However under the Data Protection Act 1998, the addresses and other contact information of private individuals must be redacted in the Consultation Report before it is submitted.
- 46. If developers undertake publicity or consultation that exceeds the minimum statutory requirements, they are encouraged to report the outcome of this pre-application engagement in the pre-application consultation report.

## ADVICE FOR LOCAL PLANNING AUTHORITIES

- 47. The pre-application consultation report must be submitted with all planning applications that are made on or after 1st August 2016, which are subject to the statutory pre-application community consultation provisions.

48. The planning application will be considered invalid unless it is accompanied by a pre-application consultation report that contains the following:
- a) A copy of the site notice;
  - b) a declaration that the site notice was displayed in accordance with the statutory requirements, i.e. in at least one place on or near the development site for no less than 28 days;
  - c) a copy of the notice given to owners and occupiers of adjoining land;
  - d) copies of all notices provided to councillors, town and community councils, and specialist consultees;
  - e) a summary of all issues raised in response to the statutory publicity (i.e. site notice and letters to owners, occupiers) – the developer must confirm whether the issues raised have been addressed and, if so, how they have been addressed; and
  - f) copies of all responses received from specialist consultees with an explanation of how each response has been addressed by the developer.
- 49.
50. LPAs should not use validation to prevent the start of the determination period where an applicant has taken reasonable steps to fulfil the information requirements.
51. In some circumstances the supporting information may be inadequate or its quality may be a concern. These are not grounds for notifying applications as invalid, but applicants are encouraged to submit information to a good standard since this will assist the determination process. LPAs have the ability to request clarification or further information during the determination process.