

Consultation reference: WG20088

Consultation Response Form

Positive Planning - A consultation on proposals to reform the planning system in Wales

We would like your views on our proposals to change the planning system in Wales. This requires changes to primary legislation, secondary legislation, and policy and guidance.

Please submit your comments by 26/02/2014.

If you have any queries on this consultation, please email: planconsultations-d@wales.gsi.gov.uk or telephone Switchboard on 0300 0603300 or 08450103300.

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 or tick the box at the end of this form. 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 If someone has asked for their name and address not to be published, that is an important fact we would take into account.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be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published.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.

Consultation reference: WG20088

Positive Planning - A consultation on proposals to reform the planning system in Wales		
Date of consultation period: 04/12/2013 – 26/02/2014		
Name	KEN HOBDEN	
Organisation	The Mineral Products Association	
Address	Gillingham House 38-44 Gillingham Street LONDON SW1V 1HU	
E-mail address	ken.hobden@mineralproducts.org	
Type <i>(please select one from the following)</i>	Businesses/ Consultants	<input checked="" 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"/>

Consultation reference: WG20088

Supporting Culture Change

Q1	Do you agree that the proposed remit for a Planning Advisory and Improvement Service will help local planning authorities and stakeholders to improve performance?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Whilst the MPA agree that some LPAs require assistance to deal with some planning applications (and indeed consideration of allocations in development plans) and that there is a pressing need for additional training, a means of providing that service already exists. Both the Planning Officers Society Wales and the RTPI for example, have the ability to and indeed do provide such a service. The reason that this is not effective at present is the missing component in the PAIS proposal; resourcing. Planning authorities cannot afford to make officers available for training events. Financial incentives must be made available to ensure attendance. Costs of attending events must be minimised. The cost of attending some dissemination events provided by third party training organisations in Wales is currently exorbitant.</p>			

Q2	Do you agree that existing Welsh Government support arrangements for the built environment sector in Wales should be reviewed?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>It is not clear what is meant by “the built environment sector” nor what the existing “support arrangements” are. The planning system and the term development covers more than the built environment and notably mineral working.</p>			

Q3	Do you agree that competency frameworks should be prepared for planning practitioners and elected representatives to describe the skills, knowledge and behaviours necessary to deliver planning reform?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The MPA would strongly support such a move. However, the arrangements should go beyond “describing” and “setting out” the required skills, knowledge and behaviours. It should ensure that those involved in planning decision making actually possess those skills etc.</p>			

Consultation reference: WG20088

Active Stewardship

Q4	Do you agree that the National Development Framework will provide a robust framework for setting national priorities and aid delivery?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q5	Do you agree that Planning Policy Wales and Minerals Planning Policy Wales should be integrated to form a single document?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			
<p>MPPW reflects the major differences in the characteristics of minerals extraction and those of other forms of development, as well as the particular importance attached to minerals planning in Wales. MPPW also sets a proper and distinct context for MTAN1 and MTAN2. If it is integrated into a revised PPW, it is inevitable that the scope and content would be reduced, with the danger that important elements of policy advice would be eroded or lost. It is recognised that MPPW needs to be updated, but this should be undertaken as a review of MPPW rather than via its incorporation into an updated PPW.</p>			

Q6	Do you agree that a core set of development management policies should be prepared for consistent application by all local planning authorities?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			
<p>The MPA would support such a move provided that issues specific to minerals development are addressed in any such core policies.</p>			

Q7	Do you agree that the proposed development hierarchy will help to ensure that planning applications are dealt with in a proportionate way dependent on their likely benefits and impacts?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments:			
<p>NO COMMENT</p>			

Consultation reference: WG20088

--

Q8	Do you agree with the proposed categories and thresholds for Developments of National Significance set out in Annex B?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: NO COMMENT			

Q9	Do you agree with the proposed categories and thresholds for Major Developments set out in Annex B?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: However, the definition of “major development” in Annex B conflicts with the definition in 4.44 to the extent that the Annex B definition includes mineral waste deposition (“mineral-working deposit”) whereas 4.44 only mentions “mineral extraction”. The MPA strongly supports the exclusion of other ancillary forms of mineral development (such as processing plant, quarry office accommodation etc) from the major development category.			

Q10	Do you agree Developments of National Significance applications should be subject to mandatory pre-application notification, and consultation?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q11	Do you agree that a fee should be charged for pre-application advice for prospective Developments of National Significance applications?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: If the pre-application process is to be mandatory for DNS applications, an			

Consultation reference: WG20088

allowance should be made for this in the application fee.

Q12	Do you agree that the Planning Inspectorate Wales is the most appropriate body to undertake the processing of a Development of National Significance application?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q13	Do you agree that only one round of amendments to an application for Developments of National Significance should be permitted after it has been formally registered?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: NO COMMENT			

Q14	Do you agree with the proposals for handling connected consents?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q15	Do you agree that examination should follow a similar procedure to the proposed call-ins and appeals?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q16	Do you agree with the proposed division of responsibilities between the Welsh Ministers and the local planning authority at the post-determination stage?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Consultation reference: WG20088

Comments:
The statements in paragraphs 4.72, 4.73 and 4.74 are unclear. In particular, it does not seem appropriate or necessary to involve Welsh Ministers in ensuring that S106s are legally enforceable.

Q17	Do you agree that the statement of case and draft statement of common ground should be produced when submitting an appeal?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
It may be appropriate to include a statement of case in amplification of the grounds of appeal, but this should not extend to a statement of comment ground (SCG). A SCG needs to be produced in parallel with the preparation of evidence, when common issues become apparent and can be agreed by negotiation between Appellants and the Planning Authority. This process normally requires several iterations. If there is a mandatory requirement to submit them at the time of lodging an appeal, SCGs would be likely to be superficial, and their maximum value to the appeal process would not be achieved. Difficulties could also occur in securing the agreement of a LPA to a draft SCG which may then cause problems with the validation of an appeal.

Q18	Do you agree that the Planning Inspectorate should decide how to handle the examination of an appeal?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
The Planning Inspectorate may identify what they perceive to be the key issues for consideration, but these may be different to those identified by Appellants. The Appellants must be given the discretion to advance their case in the way they see fit.

Consultation reference: WG20088

Q19	Do you agree no changes should be made to the content of an application post appeal submission?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>There are already legal impediments to the nature and scale of changes which can appropriately be made to applications, but within these constraints it is common for small adjustments to be made, particularly if such adjustments can address elements of concern with a particular proposal. This is particularly the case with complex mineral applications. The inability to make changes ‘to the content of an application’ should not apply to the overall content and a supporting ES. As a consequence of the timescales associated with the determination of an application, and processing of an appeal, it is invariably the case that elements of an EIA/ ES will have become out-of-date in the time period prior to an inquiry. It may even be the case that relevant policy or guidance may have been amended in the intervening period and it would seem nonsensical for the appellant to present a proposal that addresses issues arising from such an outdated background. It is essential that opportunities are available to make appropriate updates to ensure that an Inspector is provided with up-to-date information at the time of determination, and to avoid potential legal challenges to positive decisions.</p>			

Q20	Do you agree with the proposal for the Welsh Ministers to be able to initiate awards of costs?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>			

Q21	Should fees be introduced to cover the costs of the Welsh Ministers resulting from an appeal?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>In Wales, the Planning Inspectorate statistics show that the vast majority of minerals appeals are allowed. On the basis of that evidence alone applicants should not be deterred from launching appeals against bad decisions, neither</p>			

Consultation reference: WG20088

should they be expected to pay further for the right to carry out development. The cost of mounting an appeal against an unsound mineral planning decision is itself sufficient deterrent against frivolous or spurious appeals.

Q22	Do you agree that a Commercial Appeals Service (CAS) should be introduced?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: NO COMMENT			

Consultation reference: WG20088

Improving Collaboration

Q23	Do you agree that local planning authorities should be merged to create larger units?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The Mineral Products Association gave evidence to the IAG to that effect and are pleased to see that has been supported.			

Q24	Do you think that a national park authority should continue to have responsibility for planning in their area?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: This is an issue directly related to Q23 and the possible merger of planning authorities. Logic dictates that if such mergers proceed, then there would be merit in the planning responsibilities for National Parks also being merged with adjoining Authorities. It will however be important for any new authorities with responsibility for planning in National Parks to abide by current advice regarding the approach to decision making for major applications in National Parks, and, subject to the defined tests, recognise that there is no embargo against minerals extraction in National Parks.			

Q25	Do you agree that strategic development plans should only be prepared in the identified areas?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: In relation to aggregates supply there has been a strategic element to planning for many years. This currently finds form in the Regional Technical Statements (RTSs) and the work of the Regional Aggregate Working Parties. Re-casting RTSs as SDPs for minerals would add clarity to their role and facilitate integration with broader strategic planning in Wales. Minerals SDPs should cover the whole of Wales.			

Q26	Do you agree that the scope of Strategic Development Plans should be limited to the key issues identified in paragraph 5.29?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consultation reference: WG20088

Comments:

Q27	Do you agree that a partnership between local planning authorities and social, economic and environmental stakeholders should oversee preparation of Strategic Development Plans?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: YES in principle but the extent to which stakeholders could ‘oversee’ the preparation of SDPs, as opposed to being involved in their preparation in the same way as other interested parties would be involved in the plan making process (as at present), is unclear. It is also unclear whether the proposal is for SDPs to become part of the formal ‘development plan’. If they are to be afforded the weight attached to a development plan, then it is likely that the democratically elected Authorities will wish to retain ultimate control over their content, irrespective of the role of stakeholders in ‘overseeing’ their preparation. If this approach is adopted, there should certainly be specialist panels to cover minerals. In the case of aggregates, the RAWPs already largely fulfil that purpose.			

Q28	Do you agree that a light touch Local Development Plan should be prepared in areas where there is a Strategic Development Plan?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Provided that SDPs formally become part of the development plan (see also the MPA response to Q27).			

Consultation reference: WG20088

Improving Local Delivery

Q29	Do you agree with the essential elements of a good planning service identified in Annex A?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: NO COMMENT			

Q30	Do you agree that each local planning authority should produce and publish an annual performance report to agreed standards?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q31	Do you agree that where a local planning authority is designated as poorly performing there should be an option to submit planning applications for major development only to Welsh Ministers?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q32	Do you agree that Welsh Ministers should be able to direct preparation of a joint Local Development Plan?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Consultation reference: WG20088

Q33	Do you agree that Local Development Plans should plan for at least 15 years ahead and have a set end date beyond which they cease to be the development plan?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: YES, but if such a measure is adopted, clear planning policy/advice first needs to be in place to ensure that planning applications continue to be determined on their merits in the context of extant national policy and other material considerations. A ‘policy vacuum’ associated with an expired end date of an LDP should not be allowed to cause paralysis in planning decision making.			

Q34	Do you agree that local planning authorities should work with town and community councils to produce place plans which can be adopted as supplementary planning guidance?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: Whilst the Mineral Products Association would not object to such a proposal, an additional duty on LPAs to involve themselves in producing Place Plans does not seem appropriate when many are already struggling to meet their obligations to produce LDPs. Planning for the continued supply of minerals is something that must only be considered on a strategic basis and should therefore be specifically excluded from the accepted remit of Place Plans.			

Q35	Do you agree that where a development proposal accords with an allocation in an adopted development plan a new planning application process should be introduced, to ensure that only matters of detail such as design and layout are considered?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: YES. Such an approach is strongly supported in principle, but it is difficult to see how this will apply to complex minerals applications which almost always require EIA. In such circumstances, confining consideration to simple matters of detail is unlikely to lead to robust decisions. However, there are elements of the application process which would lend themselves to streamlining at the application stage, notably the consideration of ‘need’ which should not be revisited at the application stage if the development plan identifies the site for mineral development during the plan period.			
A more general difficulty in Wales is that Planning Authorities are not following the requirements of MPPW regarding the classification of areas identified in LDPs as “Preferred Areas” etc. In contrast many are introducing a variety of other terms such as reserve areas etc., which are then of questionable status. This is			

Consultation reference: WG20088

a further impediment to introducing a streamlined ‘matters of detail’ approach.

Q36	Do you support the proposal to allow a right of appeal against a local planning authority not registering a planning application?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q37	Should the requirement for mandatory design and access statements be removed?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: YES, but noting that such a requirement does not apply to mineral applications in any event.			

Q38	Should the requirement to advertise planning applications for certain developments in a local newspaper be removed?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments: NO COMMENT			

Q39	Should there be any local variation within a national scheme of delegation for decision making on applications?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Creating different arrangements between Authorities would add confusion.			

Consultation reference: WG20088

--

Q40	Do you agree that a minor material change should be restricted to "one whose scale and nature results in a development which is not substantially different from that which has been approved"?	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Q41	Do you agree that the proposals strike a balance between the need to preserve land used as Town and Village Greens and providing greater certainty for developers?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments:			
NO COMMENT			

Q42	Do you agree that the proposals will reduce delay in the planning enforcement system?	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>
Comments:			
NO COMMENT			

Q43	Do you agree with the introduction of temporary stop notices to the planning enforcement system in Wales?	Yes	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:			
It is not clear under what circumstances such powers could be used, or what the compensation provisions might be. The suspension of a mineral operation for up			

Consultation reference: WG20088

to 28 days would have substantial financial and social implications. Such proposals should not be introduced until there has been further detailed consultation on the matter.

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

Consultation reference: WG20088

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation response form and send it to: planconsultations-d@wales.gsi.gov.uk (Please include 'Positive Planning – WG20088' in the subject line).
Post
Please complete the consultation form and send it to: Planning Bill Team Planning Division Welsh Assembly Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please email: planconsultations-d@wales.gsi.gov.uk or telephone: 0300 0603300 or 08450103300