



PLANNING COMMITTEE – 5TH AUGUST 2015

SUBJECT: DEVELOPMENT OF NATIONAL SIGNIFICANCE

REPORT BY: INTERIM CHIEF EXECUTIVE

1 Welsh Government (WG) has consulted on developments of national significance (DNS). It is seeking the LPA's views by 12 August 2015 on:

- the thresholds and criteria of what qualifies as an application for DNS
- which secondary consents may be submitted for consideration and determination alongside an application for DNS
- their proposals as to how pre-application notification, advice and consultation is undertaken
- the procedure for considering and determining an application for DNS
- their proposed fee structure for DNS applications
- the role of local planning authorities throughout the process.

Some 23,000 planning applications per year are submitted in Wales. WG evidence highlights concerns about LPAs' ability to make timely decisions on some of the most challenging applications, including those that raise complex technical issues and are of a contentious nature. Some of these applications already fall to the Welsh Ministers to decide, either as a result of being called in, or on appeal following refusal by the LPA. This is regarded as an inefficient approach. It is WG's intention to ensure that in future these applications are submitted directly to, and determined by, the Welsh Ministers.

2. The proposals are summarised below, and answers are suggested to the questions raised by WG.

3. The types of development defined as DNS are those that will be of greatest significance to Wales because of their potential benefits and impacts, although they are likely to be few in number. The list of development types is summarised below; it is not complete, but is an indication of the scale of development under consideration:

- underground gas storage (with a working capacity of at least 43 million standard cubic metres or a maximum flow rate of at least 4.5 million standard cubic metres per day)
- liquefied natural gas facilities (with a storage capacity is expected to be at least 43 million standard cubic metres or have a maximum flow rate of at least 4.5 million standard cubic metres per day)
- gas reception facilities (maximum flow rate of the facility is expected to exceed 4.5 million standard cubic metres per day)
- airports (with a with a capacity of at least 1 million passengers per annum or at least 5,000 air transport movements of freight per annum)
- railways (of more than 2km in length)
- rail freight interchanges (capable of handling at least 2 goods trains per day)
- dams and reservoirs (where the volume of water to be held back is expected to exceed 10 million cubic metres of water)

- transfer of water resources (where the plant is expected to have a capacity exceeding a population equivalent of 500,000)
- hazardous waste facilities (land fills or deep storage facilities which have a capacity of more than 100,000 tonnes per annum; in any other case, facilities able to handle more than 30,000 tonnes per annum)
- pipelines not constructed by a gas transporter, or overground pipelines constructed by a gas transporter (over 2km in length)
- onshore energy stations (the generating station has the capacity to generate energy at a rate of between 25MW and 50MW)

WG question: Do you agree with the proposed thresholds and categories of development? These schemes are of a significant scale, rare, and not of a type regularly seen in Caerphilly borough. These thresholds appear sensible and realistic.

4. In addition to planning permission, other, what are referred to as ‘secondary’ consents are required such as those under the Ancient Monuments Act, Commons Act, Highways Act, Listed Buildings and Conservation Areas Act, and section 257 of the Town and Country Planning Act in respect of footpaths and bridleways. To minimise the number of separate applications required to enable a DNS to proceed and to provide greater clarity for all parties, an applicant for DNS will have the option of submitting certain connected applications, licences, orders, notices and consents to the Welsh Ministers at the same time and following the same process as the main application for DNS.

WG question: Do you agree with this proposed approach for determining secondary consents? Yes, this would appear to be a sensible approach in terms of providing an efficient and comprehensive service to developers.

WG question: Do you agree that the Inspector may determine the procedure for secondary consents? Yes, again this seems sensible in terms of providing a one-stop shop.

WG question: Do you agree with the proposed list of secondary consents? Yes, provided LPA’s and local communities are given sufficient opportunity to present their views on those consents.

5. The Planning Inspectorate (PINS) will provide a pre-application advice service that will give:
- Advice on the form and content (including technical reports) of the application for DNS;
 - Advice on information to include within any technical document submitted by the applicant;
 - Advice on the relevant policy;
 - Non-binding advice on the merits of a proposed scheme; and
 - Guidance on the amount and type of community consultation required.

LPA’s would have a role to play in this process and would be expected to provide, where requested:

- Relevant planning history;
- Advice on whether any section 106 or Community Infrastructure Levy contributions are likely to be sought and an indication of the scope and amount of these contributions;
- An indication of whether a Statement of Common Ground (“SoCG”) would be invited;
- An indication of local issues, baseline conditions or designations which require consideration;
- Advice on the local planning policy framework;
- Likely mitigation or conditions requested as a result of the proposals; and
- Suggestions of local individuals, groups or societies who should be consulted as part of the applicant’s requirement to consult with the community.

The response period for PINS will be 28 days unless an extension is agreed. LPA’s will be able to recover their costs on the basis of a standard national fee for pre-application services, whilst PINS will charge an hourly fee.

6. Developers will be expected to provide PINS with early notification of their intention to submit an application for a DNS, following which the application must be submitted within 12 months. They will also be expected to carry out pre-application consultation with the communities close to the development and produce a 'pre-application consultation report'. The consultation will include:
- (a) The display of site notices within the vicinity of the site;
 - (b) Notification letters to neighbouring properties, all local ward members and any Town or Community Councils; and
 - (c) The publication of a press notice in a local newspaper.

Communities will be given 28 days to comment.

WG question: Do you agree with the minimum requirements for the notification of a DNS? Yes, although this is more a matter for PINS than the LPAs.

WG question: 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? Yes, but there should be a quick way of extending the period if there have not been any substantial changes to the application.

WG question: Do you agree with the publicity and consultation requirements that developers must undertake prior to the submission of an application for DNS? Yes, but the emphasis should be on the applicants making all arrangements for the provision and accommodation of the consultation material, the provision of supporting personnel to give advice to the public, and the reception of all comments. None of the burden should fall on the LPA.

7. With regard to the procedure for dealing with DNS applications, this report will concentrate on the LPAs' involvement. They will be expected to engage with the developers in respect of statements of common ground (to be completed within 5 weeks where required), and the need for section 106 obligations. PINS will organise the publicity but Guidance and advice will be required from the LPA to ensure that the correct stakeholders are reached. This is likely to be obtained by PINS prior to the submission of an application. PINS may direct that LPAs provide them with the required information in relation to consultation where it is not supplied in the first instance. WG propose a partnership approach in targeting publicity in the correct way and LPAs will be responsible for putting up site notices. There will be a requirement of the applicant to deposit a physical copy of an application for DNS with the LPA(s) and the Planning Inspectorate. Any placement of copies in other public deposit locations will be entirely at the discretion of the applicant, as they consider appropriate.
8. Following the completion of consultation on the application, PINS will make a decision within 10 working days on the basis of the information before them whether further exploration by way of written representations, a hearing or inquiry is required. Only those persons specifically invited to participate in a hearing or inquiry by the Inspector will be able to do so. Amendments of more than a minor nature may be allowed to schemes during the process, and further consultation will be at the discretion of PINS on the basis of publically available guidance. PINS may invite further submissions from interested parties, but limited to no more than 3000 words. Decisions would be made within 36 weeks.

WG question: Do you agree with our proposals for the advertisement of an application for DNS? Yes.

WG question: Do you agree with our proposals regarding statements of common ground? Yes, but as this will involve the use of resources by the LPAs, it should be subject to a fee.

WG question: 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? Yes

WG question: Do you agree with our proposals for the amendment of schemes for DNS? Yes.

WG question: 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? Yes.

WG question: 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? Yes.

WG question: Do you agree that the applicant is only required to submit paper copies of applications for DNS to the Planning Inspectorate and LPA within which the DNS is located? Yes, but this will have resource implications for the LPAs: those who choose to view the plans at the LPAs' offices will inevitably expect information and support from their staff.

9. The LPAs will be expected to register the applications, produce a local impact report (LIR), and if permission is granted, monitor and enforce conditions, and deal with applications for:

- The removal or variation of conditions (which are not related to the extension of time limit or renewal of a permission);
- Minor material amendments;
- Non-material amendments; and
- The discharge of conditions.

A major material amendment would attract a further DNS application. The LIR will be the most onerous aspect of the process, which will have to be provided within 5 weeks and will contain:

- The planning history of the site in question;
- Any details of local site designations;
- An explanation of the local planning policy framework;
- A topic based technical assessment of the impacts that the development will likely have on the local area;
- Any draft conditions or obligations which may mitigate the impacts arising from the proposal, should the Welsh Ministers choose to grant permission for the application for DNS;
- Evidence that the application has been advertised in accordance with requirements.

LPAs will receive a portion of the application fee in meeting the statutory requirement to provide an LIR.

WG question: Do you agree with the minimum requirements for Local Impact Reports? Yes

WG question: Would you consider 5 weeks an appropriate timescale within which to provide a local impact report? Yes, initially, but whilst respecting the need to comply with a timetable, there should be scope for discussion between PINS and the LPAs to allow flexibility where required.

10. As stated above, LPAs would receive a fee in respect of pre-application discussions, and in respect of the LIR. The latter would be contingent upon the LPA meeting the minimum requirements and timescale for submission. If they miss the timescale without good reason they may only receive part of the fee or no fee at all.

WG question: Do you agree that the DNS fee structure should consist of fixed and daily or hourly rate fees that recover the Welsh Ministers' (and the appointed person, the Planning Inspectorate) costs in carrying out the work? This is a matter for the development industry.

WG question: Do you agree that the relevant LPA should receive a fixed fee for producing a Local Impact Report? This requires further discussion between LPAs and WG. PINS will charge on an hourly rate, and so their fee will reflect the complexity of the proposal. The fee paid to the LPAs should reflect that variability; a percentage of the PINS fee would be more equitable.

WG question: 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? No. LPAs should be committed to fulfilling the appropriate deadlines, but even if they don't, they will still have to carry out the work involved. Withholding fees will set a precedent for other fee regimes.

WG question: Do you agree that the applicant should not receive a full refund if their application is invalid? This should be considered with LPAs in the context of other fee regimes. LPAs have to validate planning applications on a daily basis. If it is intended to effectively charge for that work during the DNS process, consideration should be given to introducing it for all planning processes.

RECOMMENDATION: That WG be advised of the comments set out in the above report.