



## RECORD OF DELEGATED OFFICER DECISION

### **SUBJECT:**

WELSH GOVERNMENT CONSULTATION (NO. WG26011)  
PROPOSED AMENDMENTS TO SECONDARY LEGISLATION FOR DEVELOPMENT  
MANAGEMENT COVERING:

- STATUTORY CONSULTEES
- DESIGN AND ACCESS STATEMENTS
- HOUSES IN MULTIPLE OCCUPATION

### **PURPOSE OF REPORT:**

The purpose of the attached report is to advise of the recently issued Welsh Government Consultation Document '*Proposed amendments to secondary legislation for development management covering – statutory consultees; Design and Access statements; and Houses in Multiple Occupation*', and to seek approval to submit the Consultation response form, as attached as Appendix A

### **DELEGATED DECISION (Date):**

Approve the appended Consultation response form for return to Welsh Government.

  
Chief Officer Signature

CHRIS BRADSHAW  
Print Name

Date 30/9/15

The decision is taken in accordance with Section 15 of the Local Government Act, 2000 (Executive Functions) and in the terms set out in Section 5 of Part 3 of the Council's Constitution



RB

CONSULTEE CABINET MEMBER SIGNATURE

30/09/15

DATE

leBrads

OFFICER CONSULTEE SIGNATURE

30/9/15

DATE

Directorate:	Regeneration & Planning
Contact Name:	Simon Gate
Designation:	Service Director Planning
Tel.No.	01443 494716



# **RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

## **REPORT OF THE DIRECTOR OF REGENERATION AND PLANNING**

Author: Simon Gale, Service Director Planning

### **WELSH GOVERNMENT CONSULTATION (No. WG26011)**

#### **PROPOSED AMENDMENTS TO SECONDARY LEGISLATION FOR DEVELOPMENT MANAGEMENT COVERING:**

- **STATUTORY CONSULTEES**
- **DESIGN AND ACCESS STATEMENTS**
- **HOUSES IN MULTIPLE OCCUPATION**

#### **1.0 PURPOSE OF THE REPORT**

1.1 The purpose of the report is to advise of the recently issued Welsh Government Consultation Document '*Proposed amendments to secondary legislation for development management covering – Statutory Consultees; Design and Access Statements; and, Houses in Multiple Occupation*', and to seek approval to submit the Consultation Response Form, as attached to this report as **APPENDIX A**.

1.2 The first 15 (of 16) questions within the consultation document are noted in *italics* throughout the report below and are identified in relation to the particular subject areas of the consultation. (Question 16 is a general 'Any Other Comments' question at the end of the form and not issue specific).

#### **2.0 RECOMMENDATIONS**

2.1 It is recommended to note the proposed changes to the legislative planning system and approve the appended Consultation Response Form for return to Welsh Government.

#### **3.0 BACKGROUND**

3.1 Significant changes to the planning system in Wales are in the process of being introduced by Welsh Government. The Planning (Wales) Bill (the Bill) received Royal Assent on 6 July 2015 and is now the Planning (Wales) Act 2015, although very little of the Act is yet in force.

3.2 The Bill sets out a statutory purpose for the planning system in Wales and seeks to reinforce its role in helping to support economic prosperity, promote sustainable development and address the challenges posed by climate change, whilst safeguarding our access to a quality environment. In addition it will ensure that the use of land contributes towards sustainable development by improving the economic, social, environmental and cultural

well-being of Wales, in accordance with the Well-being of Future Generations (Wales) Act 2015.

#### **4.0 PURPOSE OF THE CONSULTATION**

4.1 The consultation seeks views on Welsh Government's proposals to amend the development management system in Wales in three areas:

- firstly, to amend the 2012 Development Management Procedure Order to update consultation thresholds for statutory consultees. In addition it is proposed to introduce new thresholds for water and sewerage undertakers who would become statutory consultees;
- secondly, amend the 2012 Order in relation to Design and Access Statements (DAS) to make them mandatory in only certain circumstances and to relax the specific content requirements when they are required; and,
- thirdly, to amend the 1987 (Use Classes) Order to create a new class for small Houses in Multiple Occupation (HMOs), with related amendments to the 1995 (General Permitted Development) Order. The aim of this proposal is to allow LPAs the opportunity to consider the impacts of small HMOs on the local area through the submission of a planning application.

#### **4.2 Statutory Consultees**

**(Amendments to Schedule 4 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012) – (DMPWO)**

*(Questions 1 to 6 relate)*

4.2.1 This section of the consultation seeks views on two amendments to Schedule 4 of the DMPWO in particular:

- revised consultation thresholds; and
- the inclusion of water and sewerage undertakers operating in Wales with appropriate consultation thresholds.

4.2.2 The proposed amendments to Schedule 4 will result in a number changes to the thresholds for consultation by LPAs with the result that some consultees will be required to comment on a greater number of applications and some a lesser number. As an example it is anticipated that the number of consultations with The Welsh Ministers (Cadw) will increase due to the amended thresholds. The current requirement is for consultation with Cadw only in cases where *'Development likely to affect the site of a scheduled monument'*. The proposed amended requirements would see a much wider description of development; including development affecting a registered historic park or its setting, development within a registered historic landscape that requires EIA. The proposed amendments, in relation to Cadw, are in part emanating from the Historic Environment Bill, which is currently passing through the Assembly.

4.2.3 Other proposed Schedule 4 statutory consultee amendments relate to The Coal Authority (to bring the DMPWO into line with the Coal Authority's risk

based approach), The Theatres Trust (to require consultation in respect of any residential development (excluding householder development) within 50m of a theatre or a proposed theatre) and NRW (to remove the need for consultation in respect of fish farms and waste development as these are covered under EIA or other legislation. In addition, new requirements in respect of development with potential flood risk will be introduced which put the requirements of TAN15 to consult on a statutory footing.

### **RCT Response**

***These amendments are acceptable although it is important that consultation bodies, such as NRW and Cadw are adequately resourced to be able to respond in a timely manner to enable to LPA to consider and determine an application within WG required targets.***

***The definition of householder development needs to be clarified although it is noted that a definition is to be inserted in the DWMPO.***

- 4.2.4 It is now proposed that water and sewerage undertakers (WASU) operating in Wales (currently Dwr Cymru Welsh Water in respect of Rhondda Cynon Taf and elsewhere in Wales Dee Valley Water and Severn Trent Water) will be made statutory consultees and that they be added to list in Schedule 4 of the DMPWO. It is considered that WASU engagement in the planning process will ensure that new development can be suitably supplied and serviced with clean water and sewerage treatment. It would also provide WASU with greater opportunity to mitigate any potential negative impact that new development is likely to have on the performance of critical infrastructure and the wider environment.

### **RCT Response**

***Whilst Dwr Cymru Welsh Water (the WASU for Rhondda Cynon Taf's area) are often consulted in respect of planning applications the proposed changes bring such consultation onto a formal legislative footing which is sensible. It is considered that it would still be appropriate for LPAs to consult with Dwr Cymru Welsh Water at their discretion, as is currently the case, in respect of certain development that is outside of the threshold but having regard to its nature, scale and specific site circumstances would benefit from consultation.***

- 4.3 **Design and Access Statements (DAS)**  
**Amendments to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 – 'DMPWO'**  
**(Questions 7 to 12 relate)**

- 4.3.1 Welsh Government, through the planning system is committed to promoting good and inclusive design and their aims are set down within Planning Policy Wales and Technical Advice Note (TAN):12 Design.

- 4.3.2 Design and Access Statements (DAS) were introduced in 2009, with the aim of bringing value to the planning and design process. However, there have been criticisms of DAS regarding process, cost and lack of clarity over required content. Notwithstanding additional Welsh Government guidance issued in August 2010 concerns remain that DAS still cause significant delays when processing relatively small planning applications.
- 4.3.3 Currently a DAS is required for most planning applications. However, it is proposed to amend the DMPWO in order that a DAS would only be required in respect of certain 'major' development (ie a development of >10 dwellings (or if in outline and the number of dwellings is unknown on a site of >0.5ha), for a building or buildings of >1000sq.m. and development on a site of >1ha). It is recognised that major development has the greatest impact on both the immediate and wider surroundings and the DAS will continue to provide an important way for developers to communicate the design and access considerations to both the LPA and the wider public.

**RCT Response**

***It is accepted that DAS do not add significant value to planning application submissions in many cases and the proposed changes to only require their submission, in a refined form, for larger forms of development is supported.***

- 4.3.4 It is recognised that smaller scale development in more sensitive areas may also have significant impacts. Accordingly, the requirement for DAS would be retained for a lower threshold of development (the provision of one or more dwellinghouses; or the provision of a building or buildings where the floor space created by the development is 100sq.m. or more) within conservation areas and World Heritage Sites.

**RCT Response**

***The lower threshold requirement for DAS is supported in conservation areas. (RCT has no World Heritage Site designations).***

- 4.3.5 In addition, applications for listed building consent will continue to require a DAS for the time being. However, The Historic Environment (Wales) Bill is proposing the introduction of Heritage Impact Assessments (HIA) and it is very possible that this will sweep up elements currently covered within DAS in the future.

**RCT Response**

***With the proposed introduction of HIAs it is considered appropriate to include the DAS requirements within that document, rather than having a situation of potentially requiring two documents, ie a HIA and a DAS.***



- 4.3.6 An often stated concern with DAS is the inflexibility of their required content. Accordingly, it is proposed to remove specific content heading requirements from DAS. The DAS would still have to explain the design principles and concepts of the development, but it is considered would result in a more proportionate approach on an individual scheme to reflect specific circumstances.

***RCT Response***

**This is more appropriate than a one size fits all approach**

**4.4 Houses in Multiple Occupation (HMOs)  
Amendments to the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995**

*(Question 13 to 15 relate)*

- 4.4.1 Welsh Government recognise that Houses in Multiple Occupation (HMOs) make an important contribution to the private rented sector catering for the housing needs of specific groups of people and are often a valuable source of accommodation in University towns and cities. However, it is also acknowledged that high concentrations of HMOs can lead to substantial changes and problems in particular locations for the settled communities as the nature of a neighbourhood/area can change.
- 4.4.2 Concerns have been raised about the problems associated with concentrations of HMOs in parts of Wales and their affect on local communities. The consultation document makes specific reference to concentration in Rhondda Cynon Taf (around the Treforest campus of the University of South Wales), albeit it does term this concentration as "limited". This is however in the context of comparison with cities and towns with long established universities, namely Cardiff, Swansea, Aberystwyth and Bangor.
- 4.4.3 Research commissioned by Welsh Government found a number of negative issues associated with a high concentration of HMOs:
- increases in anti-social behaviour, burglary and other crime;
  - reduction in the quality of the local environment due to increased litter, refuse, disrepair and prevalent letting signs;
  - increased pressure on parking;
  - loss of community balance;
  - reduced opportunities for first-time buyers and other owner occupiers due to increased house prices and competition from landlords; and
  - reduction in the provision of community facilities such as schools.

***RCT Response***

***Proposals which seek to give Council's more control over the conversion of dwellings into HMOs, particularly in areas such as Treforest are welcomed.***

- 4.4.4 Currently under the (Use Classes) Order (UCO) Class C3 (dwellinghouses) is described as – ‘Use as a dwellinghouse (whether or not as a sole or main residence) by: a) a single person or by people to be regarded as forming a single household; b) not more than six residents living together as a single household (including a household where care is provided for residents).’ HMOs are not described in the UCO as it applies in relation to Wales. Under the current regulations and dependent on the circumstances of each particular case it is possible for a family house to be occupied by a group of six people (such as students) living as a single household, without the need for planning permission.
- 4.4.5 Welsh Government is proposing to amend the (Use Classes) Order 1987 by introducing a new C4 (houses in multiple occupation by not more than six residents) use class. It is considered that this would increase the number of HMOs that require planning permission and allow LPAs the opportunity to consider the impacts of proposed new HMOs. In addition LPAs will be able to adopt local policies to control the density and spread of this type of housing. It will be for individual LPAs to consider the balance of cost and benefits in their own area in deciding whether or not to have local policies. It is, however, worth noting that such measures will not be able to be applied retrospectively and so such changes will not lead to any immediate change in communities, such as Treforest, affected by HMO concentrations. However, it will enable LPAs to manage future growth of HMOs.

#### ***RCT Response***

***The requirement to introduce a Class C4 Use is welcomed as it will give the Council the ability to consider and control the wider impacts of HMO development on an area.***

- 4.4.6 The position regarding HMOs with seven or more unrelated occupiers will remain unchanged as a ‘sui generis’ (of its own class).
- 4.4.7 As part of the proposed amendment to the (Use Classes) Order it is also proposed to align the definition of an HMO with the definition set out in section 254 of the Housing Act 2004 (excluding reference to a converted block of flats to which section 257 of the Housing Act 2004 applies). In addition it is proposed to amend the (General Permitted Development) Order to enable Class C4 HMOs to revert back to Class C3 dwellinghouses as permitted development, without the need for planning permission. This is a different position to that which has operated in England which in addition also allows, as permitted development, a change from Class C3 to Class C4. LPAs in England would need to designate an area under Article 4 to remove permitted development rights to prevent such changes taking place without the need for benefit of planning permission.

## **RCT Response**

***It is considered that such a change will give a consistent understanding to the meaning of HMOs across different service areas of the Council and to the general public.***

### **5.0 CONCLUSION**

- 5.1 It is recommended that the completed Consultation Response Form (attached as **APPENDIX A**) is approved for return, as Rhondda Cynon Taf's response to the Consultation Document.



Consultation Reference: WG26011

## **Consultation Response Form**

### **Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation**

We want your views on our proposals for amending secondary legislation in relation to the provisions on statutory consultees, when to submit a design and access statement, and the classification of houses in multiple occupation.

***Please submit your comments by 26 October 2015.***

If you have any queries on this consultation, please email: [planconsultations-b@wales.gsi.gov.uk](mailto:planconsultations-b@wales.gsi.gov.uk) or telephone Kristian Morgan on 029 2082 3360.

#### **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.

**Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation**

Consultation Reference: WG26011

Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation		
Date of consultation period: 3 August 2015 – 26 October 2015		
<b>Name</b>	Simon Gale	
<b>Organisation</b>	Rhondda Cynon Taf CBC	
<b>Address</b>	Sardis House Sardis Road Pontypridd Rhondda Cynon Taf CF37 1DU	
<b>E-mail address</b>	Simon.Gale@rctcbc.gov.uk	
<b>Type</b> <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" 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: WG26011

**2.0 Statutory Consultees**

Q1	Do you agree with the proposal to amend paragraph (i)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The definition of householder (seemingly to be inserted in the DMPWO) needs to be clarified.</p>				

Q2	Do you agree with the proposal to amend paragraph (k)?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q3	Do you agree with the proposal to amend paragraph (r)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: As with Q.1 there is a need for clarification on the definition of householder development.</p>				

**Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation**

Consultation Reference: WG26011

<b>Q4</b>	<b>Do you agree with the proposed changes as set out in Table 4:</b> (a) To remove paragraph (n)? (b) To remove paragraph (u)? (c) To add paragraph (y) to Natural Resources Wales' statutory consultation requirements?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: a) no objections/comments b) no objections/comments c) The addition of para. (y) may lead to more consultations on planning applications being sent to NRW. It is important that they are resourced to be able to respond within the required deadlines.				

<b>Q5</b>	<b>Do you agree with the proposed new consultation thresholds for Water and Sewerage Undertakers Identified in Table 5?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q6</b>	<b>Are there any other thresholds that should be included in/or excluded from Schedule 4 of the Development Management Procedure Wales Order? If so, please identify these and explain why they should be included or excluded.</b>	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: It is considered that it would still be appropriate for LPAs to consult with Dwr Cymru Welsh Water at their discretion, as is currently the case, in respect of certain development that is outside of the threshold but having regard to its nature, scale and specific site circumstances would benefit from consultation.				



Consultation Reference: WG26011

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**3.0 Design and Access Statements**

<b>Q7</b>	<b>Do you think that major development, as described under c, d and e of paragraph 3.19 (of the Consultation Document) and the Development Management Procedure Wales Order, is the right threshold for requiring a Design and Access Statement? If not, what would be an appropriate threshold?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

<b>Q8</b>	<b>Do you agree with our proposals to have different thresholds in Conservation Areas and World Heritage Sites? If not, what other sensitive areas, if any, should a smaller threshold apply?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

<b>Q9</b>	<b>Do you agree with our proposed threshold for Design and Access Statements in these sensitive areas? If not, what would be an appropriate threshold?</b>	Yes	Yes (subject to further comment)	No

**Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation**

Consultation Reference: WG26011

		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q10</b>	<b>Do you agree with the proposal to incorporate the requirement for a statement on design within a Heritage Impact Assessment when preparing an application for listed building, scheduled monument or conservation area consent?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q11</b>	<b>What do you consider should be the circumstances in which a Heritage Impact Assessment would also need to be accompanied by a statement on access?</b>
Comments: When it involves a change of use requiring planning permission that will increase public access to that of the existing or previous lawful use of the site.	

<b>Q12</b>	<b>Do you agree with our proposals to simplify the statutory content of Design and Access Statements?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Consultation Reference: WG26011

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**4.0 Houses in Multiple Occupation**

<b>Q13</b>	<b>Do you agree that a new use class C4, whereby planning permission will be required for Houses in Multiple Occupation with fewer than seven residents, should be introduced?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q14</b>	<b>Do you agree with our proposal to align the definition of an Houses in Multiple Occupation for planning purposes with the housing definition set out in section 254 of the Housing Act 2004?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

<b>Q15</b>	<b>Do you agree with our proposal to enable small Houses in Multiple Occupation (new use class C4) to revert to use as a dwellinghouse (Class C3) without requiring planning permission by amending the Town and Country Planning (General Permitted Development) Order 1995?</b>	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

**Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation**

Consultation Reference: WG26011

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<b>Q16</b>	<b>We have asked a number of specific questions. If you have any related queries or comments which we have not addressed, please use this space to report them.</b>
<b>Comments:</b>	

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:**

<b>Email</b>
Please complete the consultation form and send it to : <b><u><a href="mailto:planconsultations-b@wales.gsi.gov.uk">planconsultations-b@wales.gsi.gov.uk</a></u></b>
<b>[Please include 'Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation' in the subject line]</b>
<b>Post</b>

**Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation**

Consultation Reference: WG26011

Please complete the consultation form and send it to:

**'Proposed amendments to secondary legislation covering: Statutory Consultees / Design and Access Statements / Houses in Multiple Occupation'**  
**Development Management Branch**  
**Planning Directorate**  
**Welsh Government**  
**Cathays Park**  
**Cardiff**  
**CF10 3 NQ**

**Additional information**

If you have any queries on this consultation, please

Email: [planconsultations-b@wales.gsi.gov.uk](mailto:planconsultations-b@wales.gsi.gov.uk) or

Telephone: Kristian Morgan on 029 2082 3360

