

Explanatory Memorandum to:

- 1. The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016**
- 2. The Town and Country Planning (Validation Appeals Procedure) (Wales) Regulations 2016**

This Explanatory Memorandum and Regulatory Impact Assessment has been prepared by the Department for Natural Resources of the Welsh Government and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of:

1. The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016
2. The Town and Country Planning (Validation Appeals Procedure) (Wales) Regulations 2016

I am satisfied that the benefits outweigh any costs

Carl Sargeant AM
Minister for Natural Resources
1 February 2016

1 Description

- 1.1 The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (“the Order”) will amend the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (DMPWO 2012). The Order will change how planning related applications are submitted to and handled by local planning authorities (LPAs), how they are publicised and how developers must notify LPAs before commencing work on site.
- 1.2 The Order makes provision for the following issues to implement The Planning (Wales) Act 2015 (PWA):
- Requirement to carry out pre-application consultation (Section 17 PWA);
 - Invalid applications: notice and appeals (Section 29 PWA);
 - Decision Notices (Section 33 PWA);
 - Notification of Development (Section 34 PWA);
 - Consultation in respect of certain applications relating to planning permission (Section 37 PWA);
- 1.3 The order makes provision for the following issues by amending the DMPWO 2012 using existing powers in the Town and Country Planning Act 1990 (TCPA):
- Design and Access Statements (existing powers);
 - Local Development Orders (existing powers).
 - Post Submission Amendments (existing powers); and,
 - Section 73 Applications (existing powers)
- 1.4 The Town and Country Planning (Validation Appeals Procedure) (Wales) Regulations 2016 (“the Regulations”) introduce a procedure to be followed when applicants receive a notice that their planning related application is invalid. The procedure sets out what information needs to be sent to the Planning Inspectorate by when in order to complement the provisions of the Order, implementing section 37 of the PWA.

2 Matters of Special Interest to the Constitutional and Legislative Affairs Committee

- 2.1 This explanatory memorandum and regulatory impact assessment (EMRIA) covers two statutory instruments which are both subject to the negative procedure. The two instruments are linked in that the Regulations provide the procedure through which appeals are considered against non-validation notices introduced by the Order.
- 2.2 The Order has links to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 (the “EIA regulations”). The EIA regulations make provision, in regulation 38, Schedule 5 (local

development orders) and Schedule 9, paragraph 8(3), for procedures to apply EIA to Local Development Orders (LDOs). However, as article 27 of the Development Management Procedure Wales Order (DMPWO) 2012 prevents LDOs being used to grant planning permission for EIA development, the Order is needed to amend the DMPWO 2012 and remove the restriction on LDOs in respect of development listed in Schedule 2 to the EIA regulations. The provision in the EIA Regulations will only come into force on the date on which the Order comes into force. The EMRIA for the EIA regulations provides detail on the impact of this provision.

3 Legislative Background

Requirement to carry out pre-application consultation

- 3.1 Section 17 of the PWA inserts Section 61Z into the TCPA 1990. Section 61Z introduces a requirement to carry out pre-application consultation where the proposed development is of a description specified in a development order. A development order may make provision about how the consultation is to be carried out, who must respond to a consultation, how responses are to be made, and the timescale within which they must be made.
- 3.2 Article 4 of the Order introduces a new Part 1A into the DMPWO 2012 in relation to pre-application consultation. Part 1A sets out the requirement to carry out pre-application consultation, how such consultation must be publicised, who must be consulted, a duty for specialist consultees to respond to such a consultation; and the form and content of pre-application consultation reports.

Invalid applications: notice and appeals

- 3.3 Section 29 of PWA introduces (through the insertion of Sections 62ZA, 62ZB, and 62ZC into the TCPA) a mechanism for appeal against a LPA's decision that an application for planning permission is invalid.
- 3.4 Section 62ZA(6) states that a development order may make provision about the giving of a notice (including provision about information to be included in the notice and how and when the notice is to be given).
- 3.5 Section 62ZB(4) states that an appeal made by an applicant against a notice made under Section 62ZA(6) must be made by giving notice that complies with any requirements prescribed by a development order.
- 3.6 Section 62ZC(4) provides that regulations can be made under Section 323A of the TCPA 1990 to set out the powers and duties of the Welsh Ministers and any appointed person in relation to an appeal.
- 3.7 Article 13 of the Order makes various amendments to Articles 8, 22, and 23 of the DMPWO 2012 to define "valid application", and set out the information that must be given to an applicant where a notice is given by the LPA under Section 62ZA of the TCPA.

- 3.8 Article 13 also inserts Article 24C into Part 5 of the DMPWO 2012. Article 24C prescribes how an applicant can appeal to the Welsh Ministers against an invalid application notice and sets a time limit of two weeks to do so from the date of the notice.
- 3.9 The Regulations prescribe how appeals are to be dealt with once received by the Welsh Ministers, and provide that the appeal notice and documents that accompany it constitute the appellant's representation, and the non-validation notice issued by the local planning authority constitute their representation in relation to the appeal.

Decision Notices

- 3.10 Section 33 of the PWA inserts section 71ZA into the TCPA to require that:
- Decision notices must specify the plans and documents in accordance with which the development is to be carried out; and
 - Decision notices are to be updated and a revised version issued where consents are given or conditions changed.
- 3.11 Article 12 of the Order inserts Article 24A into the DMPWO 2012 which sets out that the person to be notified with a revised decision notice is the applicant, and that such a revised notice must include the reference number, date and effect of the decision, the name of the body that made the decision and the revision number.

Notification of Development

- 3.12 Section 34 of PWA inserts Section 71ZB into the TCPA. Section 71ZB requires notice to be given to the LPA, before development commences, of the date on which the development is to begin, giving such details of the planning permission and of such other matters as may be specified by a development order. A notice must be in the form specified by a development order.
- 3.13 Section 71ZB also introduces the requirement to display at or near the place where the development is being carried out, a copy of any notice of a decision to grant it, and states that the copy of any notice must be in a form specified by, and displayed in accordance with, a development order.
- 3.14 Article 12 of the Order inserts Article 24B into the DMPWO 2012. This specifies that for major development the notice to be given to a local planning authority before beginning any development must be in the form set out in Schedule 5A (a newly inserted Schedule) to the DMPWO 2012 (or in a form substantially to the like effect). Article 24B also specifies that the notice to be displayed (as required by Section 71ZB of the TCPA 1990) at all times when development is being carried out must be in the form set out in Schedule 5B (a newly inserted Schedule) (or in a form substantially to the like effect). The

form must be firmly affixed and displayed in a prominent place, be legible and easily visible and be printed on durable material.

Consultation in Respect of Certain Applications

- 3.15 Section 37 of the PWA inserts section 100A into the TCPA. Section 100A(2), places a duty on statutory consultees to provide a substantive response to discretionary consultation by local planning authorities (LPAs) within the timescale specified in a development order. It also requires consultees to report on their performance in accordance with the indicators and timescales set out in a development order.
- 3.16 Article 8 of the Order inserts Article 15C and 15D into the DMPWO 2012. Article 15C specifies that for the purposes of consultation under Section 100A there is a 21 day period for a statutory consultee to respond to the local planning authority once the document(s) have been received. Article 15D sets out the information that a local planning authority must provide to a statutory consultee, namely a copy of the application form relating to the relevant application, the reference number allocated to the original application, any drawings in connection with the relevant application and any report in connection with the relevant application.
- 3.17 Under Section 71 of the TCPA a development order may require a local planning authority to take into account in determining an application, such representations, made within such period, as may be prescribed. Section 74(1)(c) makes provision for a development order to require LPAs to consult with authorities or persons as may be prescribed before determining an application. These requirements are currently contained within Articles 14, 15, and Schedule 4 of the DMPWO 2012. The Order substitutes Schedule 4 to redefine the thresholds for consultation and introduce water and sewerage undertakers as statutory consultees.

Design and Access Statements

- 3.18 Section 62(5) of the TCPA requires applications for planning permission for development to be accompanied by:
- A statement about the design principles and concepts that have been applied to the development;
 - A statement about how issues relating to access to the development have been dealt with.
- 3.19 Section 62(6) sets out that the form and content of these statements should be set out in a development order.
- 3.20 Article 7 of the DMPWO 2012 currently sets out the requirements for design and access statements.
- 3.21 Article 9 of the Order substitutes Article 7. This sets out that design and access statements will only be required for major development, or development in a designated area (i.e. a conservation area or World

Heritage Site) consisting of one or more dwellings or a building with a floor space greater than 100 square metres.

Local Development Order

- 3.22 Section 61A of the TCPA provides that a local planning authority may grant planning permission for development specified in a local development order. But a development order may specify any area or class of development in respect of which a local development order must not be made. This is currently specified in Article 27(13) of the DMPWO 2012.
- 3.23 Article 14 of the Order amends article 27(13) of the DMPWO 2012 to allow local development orders to grant planning permission for development which is 'Schedule 2 development' for the purposes of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016.

Post Submission Amendments

- 3.24 Section 62 of the TCPA enables a development order to make provision regarding the form and manner of applications for planning permission made to LPAs. Section 74 of the TCPA 1990 allows provision to be made in a development order for regulating the manner in which applications for planning permission are to be dealt with by LPAs.
- 3.25 Article 11 of the Order amends Article 22 (time periods for decisions) of the DMPWO 2012, and makes provision for an additional 4 weeks before an LPA must notify an applicant of a decision, where an applicant amends their application prior to its determination.

Section 73 Applications

- 3.26 Section 74 of the TCPA enables a development order to specify a time period within which a local planning authority must notify applicants of their decision, and prescribe which authorities or persons who should be consulted prior to the decision.
- 3.27 These provisions are currently contained within Articles 12 and 14 of the DMPWO 2012.
- 3.28 Article 10 of the Order inserts article 15ZA into the DMPWO 2012, replacing the requirement that local planning authorities 'must' with discretion that they 'may' consult a statutory consultee (falling within Schedule 4 of the DMPWO 2012) where a Section 73 application has been made.

4 Purpose and intended effect of the provisions

Requirement to carry out pre-application consultation

- 4.1 The purpose of the provision is to introduce a statutory requirement for pre-application publicity and consultation in respect of proposed applications for major development. Applications made under section 73 and 73A of the TCPA are excluded from these provisions.
- 4.2 Prior to submitting a planning application for major development (as defined in article 2(1) of the DMPWO 2012), the prospective applicant must publicise the proposed application by site display and in writing to any owner or occupier of adjoining land; the prospective applicant must also consult community consultees and any relevant specialist consultees.
- 4.3 Community consultees comprise:
- (i) each councillor representing an electoral ward in which the proposed development would be located and
 - (ii) each community council in whose area the proposed development would be located.
- 4.4 A specialist consultee is defined as the authority, person or body mentioned in the Table in Schedule 4 to the DMPWO 2012.
- 4.5 A “pre-application consultation report” must accompany all planning applications that have been subject to the statutory requirement to undertake pre-application publicity and consultation. The report must provide prescribed evidence that the applicant has complied with the statutory pre-application publicity and consultation requirements. It must include copies of all responses received from specialist consultees with an explanation of how these responses have been taken into account. It must also provide a summary of all issues raised by other respondents, including community consultees, and provide confirmation of whether these issues have been addressed by the applicant.
- 4.6 The intended effect is to provide a statutory basis for early, meaningful engagement to ensure that communities and specialist consultees have the opportunity to influence development proposals before they are formally submitted as planning applications at a time when they are more easily changed.
- Invalid applications: notice and appeals
- 4.7 The standard application form helps to provide consistency in the information needed to accompany a planning application. It places the responsibility on applicants to gather all information LPAs need to make robust, informed decisions. LPAs must take a proportionate approach when applying the requirements of the standard application form and any local information requirements when deciding if a planning application (including other planning consents, agreement and approvals) should be accepted (often referred to by LPAs as being valid).

- 4.8 Disputes may occur over how much information is appropriate, although currently for the developer the only viable option may be to provide the information requested. To resolve disputes quickly, a new appeal mechanism has been introduced that deals solely with whether a submitted application is valid. This provides a right of appeal against the decision of an LPA not to entertain a planning application, using a streamlined appeal procedure administered by the Planning Inspectorate.
- 4.9 On deciding that an application for planning permission is invalid, an LPA will have to provide notification to the applicant of that decision. With the ability of applicants to appeal against the LPA's decision, it is expected that LPAs will make more considered and proportionate decisions in respect of validation.

Decision Notices

- 4.10 The purpose of the provision is to ensure that the public and any interested party can keep themselves fully informed of any changes to the planning permission as details relating to conditions are submitted and approved.
- 4.11 Therefore the intention is that a decision notice establishing the principle of development (i.e., outline or full planning permission) will be updated to take into account where either details required by a condition (or the removal or variation of a condition) are approved then the decision notice will be updated to reflect this and will include the reference number, the date and effect of the decision, the name of the body that made the decision and the revision number.

Notification of Development

- 4.12 Currently, there is no legal requirement for developers to notify anybody before planning permission is implemented. Consequently, local residents and other members of the public may only become aware of development being commenced when activity begins on site. Where there are a number of planning applications relating to a site, it may also be difficult for local planning authorities and members of the local community to establish what planning permission is being implemented.
- 4.13 The intended effect of these provisions is to support greater clarity, transparency and certainty for all stakeholders, including local communities, in the development management process, in particular where a single development has multiple permissions. The introduction of a notification of commencement will assist in monitoring compliance with permissions by helping to ensure that all necessary conditions have been discharged prior to development commencing, thereby reducing possible breaches of condition and the need for subsequent enforcement action.

Consultation in Respect of Certain Applications

- 4.14 The purpose of the provision is to clarify the areas where those bodies that are currently identified as statutory consultees in the planning application process must provide specialist advice when consultation requests have been made, in particular, by the local planning authority for applications for approval, consent or agreement, which include applications to discharge conditions, reserved matters applications and applications for non-material amendments.
- 4.15 Where these bodies are consulted in the circumstances described above, the provisions also ensure that they provide timely and substantive responses and report to the Welsh Ministers on their compliance with the requirements.
- 4.16 The provisions will require those bodies / organisations that are currently identified as statutory consultees in the planning application process to provide substantive responses to consultation requests that are made within a set period, as prescribed.
- 4.17 These changes will assist the LPA to obtain specialist information to inform the determination of certain types of applications. They will also benefit developers by ensuring these bodies / organisations respond promptly to any request for information, helping to reduce delays in the determination process. They should also reduce the uncertainty felt by local communities often associated with lengthy protracted responses. Finally, the changes will benefit statutory consultees themselves by ensuring their considered views are taken into account in the determination of a proposed development.
- 4.18 The amendment to Schedule 4 to the DMPWO 2012 would encourage statutory consultees to provide timely and proportionate consultation responses by allowing them to better focus resources. This would result in a more efficient planning system as the change is expected to result in behavioural change on the part of statutory consultees.
- 4.19 Many statutory consultees are experts in their field and may hold knowledge that LPAs do not have access to, either because they do not have an internal expert or because it relates to an asset controlled by the consultee. Failure by consultees to provide a timely or clear response can therefore cause delay in the planning system as LPAs may not be able to make an informed decision without it. Furthermore, LPAs are under threat of legal challenge if they make a procedural error in their determination by not considering all material considerations.
- 4.20 It has been documented that statutory consultation does on occasion cause delay and frustration in the planning system in Wales. The independent Advisory Group Report (2012) criticised statutory consultees for providing late and disproportionate responses to consultations.

- 4.21 Our consideration of the evidence has resulted in a suite of legislative reforms to refine the interaction of statutory consultees with the planning system in Wales. Sections 18 and 37 of the PWA together with the commencement of section 54 of the Planning and Compulsory Purchase Act 2004, will deliver improvements to the statutory consultation process at pre-application, application, and post application stages. This legislation (through the Order which is the subject of this EMRIA) makes provision for the Welsh Ministers to:
- define a substantive response which statutory consultees must provide following a consultation request under S100A of the TCPA 1990;
 - set the timescale within which a response should be made; and
 - provide for an annual report by statutory consultees on their performance in complying with the duties imposed on them.
- 4.22 Following on from the early consultation work in 2010, discussions with existing statutory consultees suggested that amendment to the current consultation thresholds in Schedule 4 was required for four of the bodies. The amendments are intended to either increase or decrease the number of applications referred to each consultee. In some instances the amendments to the DMPWO 2012 result in fewer consultations with a statutory consultee and thus allow them to redirect resources to focus on high priority planning applications. The provision of standing advice for lower risk proposals will ensure that LPAs are still able to make informed decisions.
- 4.23 Alternatively, some bodies will have an amended consultation threshold resulting in input on a greater range of applications. This may be due to a change in their role or remit, or a lack of clarity of the existing threshold definitions on when LPAs should consult.

Design and Access Statements

- 4.24 The purpose of the provisions is to reduce the number of applications where a Design and Access Statement is required. In particular, by changing the threshold for applications that will require a Design and Access Statements to major development (as defined in Part 1, Article 2 of the DMPWO 2012). However, in order to avoid unnecessary burden the provisions exclude:
- applications for mining / mineral operations;
 - waste developments;
 - permission to develop land without compliance with conditions previously attached (made under section 73 of the TCPA); and
 - material changes in use of land or buildings.
- 4.25 For development in a Conservation Area or World Heritage Site the following lower threshold is applied:
- the provision of one or more dwellinghouses; or
 - the provision of a building or buildings where the floor space created by the development is 100 square metres or more.

- 4.26 The provisions simplify the requirements for the content of Design and Access Statements in legislation by making the following changes:
- remove the requirement to explain the specific design principles that have been applied to “environmental sustainability”, “movement to, from and within the development”, “character” and “community safety”;
 - remove the requirement to give details concerning maintenance in respect of access features; and
 - remove the statutory definitions for ‘character’ and ‘context’ in respect of Design and Access Statements.

Local Development Orders

- 4.27 The purpose is to encourage LPAs to adopt LDOs as they are a tool that can assist wider planning objectives by contributing towards streamlining the planning system through removing the need for developers to make applications to the LPA. They can add certainty to the planning system, helping to encourage developers. They can also save time and money for stakeholders in the planning system.
- 4.28 Amendment to Article 27 of the DMPWO 2012 to allow an LDO to grant permission for ‘Schedule 2 EIA development’, will facilitate large-scale development that will widen the benefits that individual LDOs can deliver.

Post Submission Amendments

- 4.29 The Welsh Government wants to address the impact of post-submission amendments and the additional administrative costs they impose on LPAs.
- 4.30 Depending on the complexity of the post-submission amendment submitted by an applicant, additional time may be necessary to determine the application, especially if those already consulted on the application and those who may be affected by the amendment are to have the opportunity to comment on the revised development proposal. Accordingly we intend to extend the determination period of major planning applications by four weeks if post submission amendments are made.
- 4.31 In terms of the Planning Performance Framework the additional time period can be captured under the existing performance measure, and providing the 4 week period is met can be deemed to be have been agreed within time. Therefore there will be minimum resource implications in terms of reporting for local planning authorities.

Section 73 Applications

- 4.32 An application under Section 73 of the TCPA proposes to carry out development without complying with conditions previously attached to a planning permission. Although sometimes referred to as ‘varying’ the

conditions of the previous consent, the effect is to grant a new planning permission. An application under section 73 is therefore still an application for planning permission.

- 4.33 Although it is an application for planning permission, when considering an application under this section the TCPA requires that the LPA shall consider only the question of the conditions subject to which permission should be granted. The application is therefore not the same as a 'regular' planning application.
- 4.34 Section 73 is used to make a number of different amendments to existing consents. These may be very small changes to a scheme that have no material planning impacts on an area, however as they are still applications for planning permission the consultation and notification requirements the LPA must undertake are the same as that for a full planning application.
- 4.35 The changes to a planning permission proposed through a section 73 application process may not have an impact that is sufficient to warrant further consultation. LPAs, having determined the original application and considered the issues that it raised, should be best placed to decide who is affected by the change and who should be consulted on an application. For example, an amendment to the road layout may only necessitate consultation with the Highways Authority.
- 4.36 In the same manner, carrying out the same publicity requirements as the original application may create unnecessary work, resulting in people notified of applications where the change has no impact upon them – which could cause confusion and misunderstanding over the application. LPAs again, if they were able to undertake targeted notification could identify those affected, and notify them directly.
- 4.37 The intention is that the LPA, having determined the effect of the change, should have discretion over who should be notified and consulted on the application. Providing discretion to the LPA would allow for a more targeted approach to these processes; reducing burden on the LPA, consultees and removing confusion as to the effect of the application.
- 4.38 Certain applications can be identified as having the potential for a greater effect on an area and the public. Applications requiring an environmental impact assessment (EIA) by their nature are large applications that can have a significant impact on the area, whereas rights of way may be used by people who are not directly adjacent to a proposed development. To account for this, there are special notification provisions where the applications must be publicised in a local newspaper. The newspaper advertisement therefore provides a wider level of publicity for these schemes. To continue to ensure that the public is made aware, and provided an opportunity to be involved in the consenting process on these applications, where an application is subject to an EIA, or would affect a right of way to which Part 3 of the

Wildlife and Countryside Act 1981 (public rights of way) applies, the LPA will continue to have no discretion over who it notifies.

5 Consultation

- 5.1 A number of consultations have been conducted to cover the provisions contained in this EMRIA. A summary of the main issues is identified in this section. The complete suite of 'Summary of Responses' documents can be found on the Welsh Government website.

Requirement to carry out pre-application consultation

- 5.2 "Frontloading the development management system", was issued for consultation between 6 October 2014 and 16 January 2015. A total of 17 questions were set out in the consultation paper. The consultation exercise generated 72 responses from a wide range of stakeholders: business, local planning authorities, professional bodies/interest groups, government agencies/other public sector, and individuals.
- 5.3 There was general support from all stakeholder groups to the consultation proposals in relation to pre-application consultation.

Invalid applications: notice and appeals

- 5.4 The ability to appeal against a LPA's decision not to entertain an application featured in the consultation paper "Positive Planning - Proposals to reform the planning system in Wales" and draft Planning (Wales) Bill, which were subject to public consultation between December 2013 and February 2014. The results of this consultation exercise and the Environment and Sustainability Committee's consideration of the Bill have informed the provisions which are now in the PWA.
- 5.5 A second consultation 'Secondary legislation for development management' was undertaken between 19 June 2015 and 11 September 2015. The consultation sought comments on proposals that provided further detail on the validation appeal process. Questions 1 and 2 sought opinion on the content of the proposed notice that an application is not valid and the majority of respondents agreed with the principle of the criteria presented. Further recommendations were provided and these will be taken forward in the drafting of the model notice. 90% of respondents agreed that the application fee should be retained by the LPA pending the outcome of the validation appeal.
- 5.6 76% of respondents agreed with the proposal that provides developers 14 days to appeal an LPA decision that an application is invalid. 41% of the LPAs that responded disagreed with the proposal citing that the period should be shorter to make the process faster. However, it is considered that a shorter timeframe would be unfair to developers to assess their options following receipt of a non validation notice.

- 5.7 With regard to the 21 day period proposed for the Welsh Ministers to determine a validation appeal, 61% of respondents agreed. Out of the LPAs that responded, 53% of disagreed indicating that the 21 day period was too long if the planning application process was to be completed within its statutory timeframe. However, it is considered that the validation appeal process will encourage schemes (and the required documents) to be finalised and agreed at the pre-application stage. If this is achieved then the need for validation appeals will be removed, resulting in a faster and more efficient system.

Decision Notices

- 5.8 The 'Secondary legislation for development management' consultation paper (June – September 2015) provided more detailed information on how decision notices would be updated and what would be included. There was overwhelming support (87% in agreement) from those who responded to question 6 that when decision notices are revised they should include the date of the approval and the application reference number.
- 5.9 A number of respondents also suggested that an updated decision notice should also include a version or revision number to ensure that interested parties are able to differentiate between the original permission date, and the date when the notice was updated.

Notification of Development

- 5.10 The intention to introduce notification of development was first outlined in the 'Positive Planning' consultation paper (December 2013 – February 2014). Subsequently, the 'Secondary legislation for development management' consultation paper (June – September 2015) provided more detailed information into the requirements for notification of development and asked respondents to consider whether any further consideration should be given to these requirements.
- 5.11 Respondents felt that if developers are required to display a copy of a decision notice on site for major developments, this should be summarised in a document not exceeding two pages. Developers should also be required to inform the local planning authority of where the decision notice will be displayed.

Consultation in Respect of Certain Applications

- 5.12 The majority of the secondary legislation for section 100A of the TCPA was consulted on in the consultation 'Frontloading the Development Management System' which closed on 16 January 2015. The responses to these questions have been analysed and the majority of respondents agreed with or supported our proposals, or agreed subject to further comments.

- 5.13 Section 100A also allows the Welsh Ministers to make provisions in a development order to ensure LPAs do not determine an application for approval before the end of a specified period.
- 5.14 In the consultation 'Secondary legislation for development management' which concluded in October 2015, we proposed that where discretionary consultation occurs, LPAs must not determine the associated application until 21 days after consultation, or when all consulted bodies have provided a substantive response, which ever is the sooner. We also proposed to allow for extensions of time to be agreed between LPAs and consultees. 85% of respondents to the consultation agreed with the proposals.
- 5.15 The consultation also proposed to change what applications need to be sent to statutory consultees and also proposed additional consultees.
- 5.16 The Coal Authority - The consultation proposed a revised description of development that would reduce unnecessary consultation with the Coal Authority. 97% of respondents agreed with the new threshold in reflecting the Coal Authority's risk based approach to development management, where only development in high risk areas from coal mining legacy requires consultation. Low risk development is currently filtered out by LPAs through an informal exemptions list and standing advice.
- 5.17 The Welsh Ministers / Cadw – The consultation reflected in part the anticipated duties to be placed on Cadw emanating from the Historic Environment (Wales) Bill (currently being scrutinised by the National Assembly), and the need to provide a clear trigger for consultation requirements. 86.5% of respondents agreed with the proposals but there were many questions requesting further clarification and these are addressed in the report on consultation responses.
- 5.18 Theatres Trust – 83% of respondents agreed with the proposed new description of development for the Theatres Trust that will ensure full consultation by LPAs. In particular where residential development can impact a theatre's operation and viability due to amenity and noise complaints.
- 5.19 Natural Resources Wales - The consultation reviewed the existing consultation criteria following the formation of Natural Resources Wales (NRW) where the functions of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales were brought together as one body in April 2013. 90% of respondents agreed with the proposal to remove two consultation thresholds relating to fish farming and waste and introduce new flood risk criteria, which will formalise the current non-statutory consultation that takes place as a result of the advice in Technical Advice Note (TAN) 15: Development and Flood Risk. .
- 5.20 Water and Sewerage Undertakers (WASU) – 94% of responses supported the proposed new thresholds for WASU. However, many

LPA questioned the rationale behind the consultation criteria (iii) and (iv). Following analysis of the consultation responses and negotiation with Dwr Cymru we have proposed to remove these two development descriptions. It is considered that the remaining development descriptions set out in points (i) and (ii) adequately cover WASU interests.

Design and Access Statements

- 5.21 Various public consultations have been undertaken, by both the Welsh Government¹ and the National Assembly for Wales's Environment and Sustainability Committee², in respect of proposals to remove the mandatory requirement for Design and Access Statements.
- 5.22 The consultation responses, and the views of the Environment and Sustainability Committee, resulted in the requirement for Design and Access Statements being retained in primary legislation and informed the proposal to amend the requirements for Design and Access Statements in secondary legislation.
- 5.23 A public consultation was undertaken between 3 August 2015 and 26 October 2015 seeking the views of stakeholders on reducing the number of planning applications which require a Design and Access Statement and making the content requirements less prescriptive, in order to help streamline the planning process.
- 5.24 A significant majority of respondents agreed with all the proposed changes to Design and Access Statements. 76% of respondents agreed with the proposal to require Design and Access Statements for major development proposals only. 96% agreed with the proposal to have different thresholds in conservation areas and World Heritage Sites. 95% of respondents agreed with the proposed threshold for Design and Access Statements in these sensitive areas. 74% of respondents agreed with the proposal to simplify the statutory content of Design and Access Statements. A more detailed summary is provided in the Consultation Summary Report.

Local Development Orders

- 5.25 The proposed changes to the Environmental Impact Assessment Regulations and legislation on Local Development Orders were set out in a consultation document issued on 26 March 2015. A 12 week period for responses was provided for the consultation, closing on 18 June 2015.

¹ 'A public consultation 'Positive Planning: Proposals to Reform the Planning System in Wales' was undertaken between 4 December 2013 and 26 February 2014 and subsequent consultation 'Design in the Planning Process' between 6 October 2014 and 16 January 2015.

² The National Assembly for Wales's Environment and Sustainability Committee, in scrutinising the Planning (Wales) Bill, issued a consultation between 10 October 2014 and 7 November 2014 and held oral evidence sessions in November and December 2014.

- 5.26 The consultation exercise generated 16 responses, all of which supported the proposed change.

Post-submission Amendments

- 5.27 The four week time extension and fee proposed for post-submission amendments to major applications were consulted on between 19 June 2015 and 11 September 2015 in the Welsh Government consultation document 'Secondary legislation for development management'.
- 5.28 With regard to the four week time extension, 83% of respondents agreed that the additional time should be provided to LPAs to determine major applications. Some business respondents disagreed with the proposal citing the existing discretionary approach with LPAs as fit for purpose and the risk that it would discourage important amendments. However, it is considered the four week time extension will serve to encourage quality pre-application discussions between all stakeholders so that the need for post-submission amendments is reduced.
- 5.29 Of those who responded to the consultation question regarding post submission fees, 73% considered that a fee should be charged by LPAs. Business respondents were generally opposed to the idea, citing the additional fees already proposed for pre-application discussions and the discharging of planning conditions. Some local planning authorities were concerned that developers would stop responding to opportunities to improve their designs and development quality would suffer.
- 5.30 When considering the fee that should be payable, 60% of those who responded agreed that the standard fee of £190 was appropriate to cover LPA costs in processing post submission amendments. The RIA for the fee is contained in the EMRIA for The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016.

Section 73 Applications

- 5.31 A public consultation on the proposed amendments to Section 73 was included in the 'Secondary legislation for development management' consultation paper (June – September 2015). There was general support from all stakeholder groups for the proposals to revise consultation and notification requirements for applications that fall within Section 73 of the TCPA 1990.

6 Regulatory Impact Assessment

- 6.1 A Regulatory Impact Assessment (RIA) accompanied the PWA 2015 that included assessment of the above provisions except those proposed to be made using existing powers. The RIA included within this document is largely unchanged in respect of the above provisions, compared to the RIA

completed for the PWA 2015, aside from some minor updating where new information has become available since enactment.

Requirement to carry out pre-application consultation

6.2 This part of the Regulatory Impact Assessment (RIA) combines elements of, and is largely unchanged from, the RIA for the Planning (Wales) Act 2015³.

6.3 Two options have been considered:

Option 1 - Do nothing i.e. continue with the current discretionary approach in which developers choose whether or not to engage directly with communities at the pre-application stage. There is no duty placed on statutory consultees to respond to pre-application requests within a prescribed period.

Option 2 - Introduce a requirement for pre-application community consultation on all planning applications for major development and a duty on statutory consultees to provide a substantive response within a prescribed time period.

Option 1 – Do Nothing

Description

6.4 There would be no change to the current legislation under this option. The developer would have discretion over whether to engage with communities and statutory consultees at the pre-application stage.

Costs

Welsh Government

6.5 There are no additional costs to the Welsh Government and guidance on the pre-application process is already in place.

Local Planning Authorities

6.6 This option does not result in any additional costs to local planning authorities (LPAs) or statutory consultees.

Statutory Consultees

6.7 This option does not result in any additional costs to statutory consultees. Developers would continue to engage on a discretionary basis.

Development Industry

(i) *potential delay in the determination of planning applications*

6.8 If developers do not engage in pre-application community consultation, the lack of public involvement has the potential to be reflected in an increased number of representations / objections at the planning

³ [Planning Wales Act EM/RIA](#)

application stage and a need for amended plans, which can lead to a delay in the decision making process.

- 6.9 If developers do not receive timely, “substantive” responses from statutory consultees at pre-application stage, their subsequent planning application may not take account of significant technical issues which could cause delay in the determination of the planning application.
- 6.10 It is difficult to estimate the exact cost to the development industry, caused by delay, if pre-application consultation is not undertaken but research estimates that the costs to the UK economy - caused by delays in securing planning permission - are between £700 million⁴ and £3 billion⁵ per year.

(ii) Costs of engaging with communities at pre-application stage

- 6.11 If developers choose to engage with communities at pre-application stage, the costs will vary. Developers will normally appoint planning consultants to undertake any pre-application community engagement. Typically, such engagement may range from producing and distributing leaflets for smaller developments to hosting a public meeting, exhibition or forum for larger projects. Developers may also want to ensure their planning application addresses public concerns; this can necessitate changes to development proposals and the preparation of engagement statements to accompany subsequent planning applications.
- 6.12 There is not a standard cost for conducting community consultation and engagement, as costs are dependent on factors such as the applicant’s access to printing facilities, staff costs and a location for holding events. The scale of engagement will vary according to the nature of the application, and whether it affects a small number of people, or a larger population. The paragraphs below estimate the likely costs.

Sample costs to publicise a development proposal

- 6.13 Data from local planning authorities⁶ gives an indication of the cost per application that LPAs face when publicising planning applications. The data contains current advertising costs, the costs of stationery (printing costs etc.) and postage costs. Despite actively seeking the information, we have been unable to establish the cost for the development industry of publicising pre-application developments but consider that basic publicity costs will be similar to LPAs, i.e. £40 per scheme.

Analysis of responses

- 6.14 Developers who currently engage in pre-application public consultation may analyse representations from members of the public and submit details of these in a report to the local planning authority.

⁴ [Planning applications: A faster and more responsive system \(November 2008\)](#)

⁵ [Planning reforms boost local power and growth \(4 September 2011\)](#)

⁶ Source: LPA returns for 2013

- 6.15 The cost for this would therefore be the time taken to collate the information and write a report. The time taken to undertake this work would depend on how much information the developer receives from the public. Based on the data obtained from a number of UK planning consultancies, the average hourly rate for professional planners is approximately £40.
- 6.16 The time taken to analyse comments and produce a report will vary considerably depending on the number of comments received and the complexity of the issues raised. For example a small scheme, of 10 houses in a city-centre location, may attract a handful of responses that could comfortably be analysed and compiled into a report in a single day – based on a 8 hour day this equates to a cost of £320. By comparison, it is estimated that a large development of 500 houses, that attracts 100 responses, would require about 3 to 4 days of a planning consultant's time, which equates to a cost of between £900 and £1,300.
- 6.17 The total cost for the developer of undertaking a basic level of pre-application community consultation is therefore estimated to be between £350 and £1,300 but this cost is discretionary as under this option, developers choose whether to engage with communities.

(iii) costs of engaging with statutory consultees

- 6.18 Under this option, consultation with statutory consultees is discretionary so the developer will not incur any costs unless they choose to engage with consultees. In most cases, such discretionary consultation will involve contacting the statutory consultee by letter. Using an hourly rate of £40 per hour and assuming a letter/email would take approximately 20 minutes to draft, the cost per pre-application consultation query would be about £13.

Benefits

Local planning authorities

- 6.19 Where pre-application consultation has taken place it can reduce the number of representations and objections at planning application stage as the public have already been informed of the proposed development, they have a better understanding of its impact, and they have been able to influence the scheme at an early stage. However this benefit is not fully secured by option 1 due to the discretionary approach taken by developers. LPAs will need to process objections and deal with queries from members of the public which is resource intensive.

The Community

- 6.20 The community is currently invited to engage in pre-application discussions when the developer chooses to undertake such activities. This usually means that when pre-application engagement is offered then it is meaningful. However, under option 1, in many cases the

public will not benefit from pre-application consultation because pre-application community engagement will remain discretionary.

Statutory consultees

6.21 This option provides flexibility for statutory consultees as they do not have to provide a response to prescribed standards or timescales.

Development Industry

6.22 The current approach leaves the decision on whether to conduct pre-application consultation to the developer. There are no prescribed standards for such consultation procedures, meaning they are in control of expenditure and costs of engagement. Developers will only undertake engagement when they consider it is required or could be beneficial. They can also tailor pre-application consultation to fit the circumstances of particular cases. Equally they may choose not to engage with the community or statutory consultees where they feel it serves no beneficial purpose.

Option 2 – A requirement for pre-application community consultation and consultation with statutory consultees on all major applications with the submission of a pre-application consultation report to the LPA

Description

6.23 Section 17 of the Planning (Wales) Act 2015 provides the power, through a development order, to require developers to undertake pre-application consultation with the community (which will include local members and community councils) and prepare a consultation report to accompany any subsequent planning application for major development⁷ proposals. It also provides that a development order can specify how those consulted, including “specified consultees” (statutory consultees) must respond to consultation and report on their performance.

Costs

Welsh Government

6.24 Procedural guidance on the delivery of the proposals will be developed for LPAs. This will include sample templates associated with the pre-application community consultation process. This will help to ensure a consistent approach. Based on the average salary of a HEO planning officer and the estimated time taken to produce the form, we calculate the total cost to be £400.

Local Planning Authorities

6.25 LPAs are already responsible for validating planning applications and the supporting information. Validation of the pre-application consultation report will be undertaken as part of this existing process and will therefore not generate an additional cost. The additional duties on statutory consultees will not have any cost implications for LPAs.

⁷ “Major development” is defined in the Town and Country Planning (Development Management Procedure) (Wales) Order 2012

Statutory consultees

- 6.26 Currently statutory consultees are formally consulted once by LPAs, on submission of an application. This is often followed up by subsequent informal consultations to establish if the body is satisfied that their concerns have been addressed. Under this option, the applicant will be required to consult statutory consultees at pre-application stage and statutory consultees will be required to provide a timely, substantive response. LPAs will continue to consult statutory consultees once a subsequent planning application is submitted but the response required from the statutory consultee at this stage will be less onerous than currently is the case, as any substantial issues will have been addressed in the pre-application response. In comparison, the existing situation requires statutory consultees to provide their detailed response once a planning application is submitted and they are likely to provide additional responses as the application progresses to determination in order to clarify to the LPA whether the applicant has adequately responded to their concerns. As such, the proposal is not considered to place additional costs on statutory consultees, as the resources required to scrutinise development proposals will be similar.
- 6.27 Provided that consultees have effective work load monitoring systems in place, which could be as informal as a spreadsheet, they should be able to produce reports of their performance. They may need to amend workload monitoring systems in order to collect the required data, which would involve a one off cost to, potentially, each statutory consultee. Some consultees may be rarely consulted and so may not have a workload monitoring system, meaning that data may be collected and logged manually. It is estimated that the cost for producing these types of reports is £80 per statutory consultee – this equates to 2 hours of officer time, at £40 per hour. There are 13 different statutory consultees identified in Schedule 4 of the DMPWO 2012, so the total estimated cost to statutory consultees, as a sector, would be approximately £1,000.

Development Industry

- 6.28 There will be additional costs for those developers who submit major planning applications that are not currently subject to pre-application consultation.
- 6.29 Welsh Government monitoring data shows that 583 major applications were determined in Wales during 2013 – on average about 600 major applications per year are determined in Wales. Analysis of major planning applications in 2013 suggests that about 25% were supported by some form of pre-application community consultation.
- 6.30 For Option 1 it was estimated that the cost to the developer of publicising developments and producing a summary report could be between £360 and £1,320. We envisage that the statutory requirement for pre-application community consultation will require the developer to notify neighbours of their plans by letter and site notice and report the outcome of the consultation. The figures of £350 to £1,300 per major

application are considered to represent a reasonable estimate of the statutory minimum costs of option 2 to the developer.

- 6.31 As it is estimated that 25% of major applications are already subject to pre-application community consultation, it is expected that this additional cost would fall on about 75% of proposals for major development.
- 6.32 Based on the number of major applications determined in 2013, the estimated total additional cost to the development industry of community consultation under option 2 would therefore be between £150,000 and £580,000 per year.
- 6.33 Although we do not have figures on the average costs of preparing a planning application in Wales, Arup⁸ have estimated costs based on a selection of LPAs in England. For example, the median costs of securing planning permission for various types of major development is between £18,000 and £80,000 per planning application. Whilst the Arup data is based on English LPAs and planning application costs in Wales may be lower, it does indicate that the additional cost of option 2 equates to a small proportion (about 2%, based on the Arup data) of the overall cost to the developer of preparing a planning application.
- 6.34 The requirement to formally consult statutory consultees at pre-application stage will involve sending an e-mail or letter to the consultee with information on where the application can be viewed. Based on an average 600 major applications in Wales each year, using an hourly rate of £40 per hour, and assuming a letter/e-mail would take approximately 20 minutes to draft, the total estimated cost to the development industry would be £7,800.
- 6.35 The total cost to the development industry of option 2 is therefore estimated to be between £165,000 and £585,000 per annum.

The Community

- 6.36 There is no requirement for the community to respond to pre-application consultation – the process provides an opportunity for the public to engage with the developer. So option 2 does not result in any additional financial cost to the community.

Benefits

Local planning authorities

- 6.37 Pre-application consultation may result in fewer objections from members of the community and statutory consultees when the full planning application is received. The need for amendments to applications will be reduced which will save staff time and resources. A further benefit for LPAs is that a smoother application process will facilitate decision making within statutory targets.

Statutory consultees

⁸ Benchmarking the costs to applicants of submitting a planning application (July 2009) Arup, July 2009. Department for Communities and Local Government

- 6.38 The main benefit from the changes proposed is that statutory consultees will adopt efficient work practices and so in turn make cost savings. On occasions statutory consultees have been known to provide overly long and disproportionate responses to consultations, including holding objections. Statutory consultees will be able to develop relationships with developers and resolve matters of concern before an application is submitted. Therefore their responses to post-submission consultation carried out by LPAs will simply require confirmation as to whether the proposal satisfies their original comments, thereby making for a quicker consultation and subsequent determination.

Development Industry

- 6.39 According to a report by the Local Government Association in association with the British Property Federation⁹, pre-application engagement should lead to high quality and appropriate development schemes being granted planning permission more quickly. Early, collaborative discussions between developers, consultees and the communities affected by a new development can help to shape better quality, more acceptable schemes and ensure improved outcomes for the community. These discussions also avoid wasted effort and costs.
- 6.40 Having undertaken pre-application consultation the planning application should be subject to fewer objections. This should result in fewer delays to the overall scheme, facilitating a quicker decision on the development which reduces significant costs for the developer.
- 6.41 There are further indirect benefits to developers from engaging successfully with the community. Consultation may not always resolve conflicts, but it shows a willingness to listen and consider alternative views and can result in better relations between the developer and the community.

The Community

- 6.42 The key difference is that under this option, the community has an opportunity to benefit from consultation prior to submission on all major planning applications and not only those where the developer chooses to engage. It will ensure that communities in the vicinity of all major applications are made aware of draft proposals and offered a meaningful and early opportunity to influence the scheme.
- 6.43 This option would facilitate a consistent approach to pre-application community consultation across Wales.

Summary and Preferred Option

- 6.44 The principle of pre-application community consultation is generally accepted and welcomed by users of the planning system.

⁹ 10 Commitments for effective pre-application engagement (Local Government Association, January 2014)

- 6.45 Option 1 proposes no change to current arrangements. Developers may choose to engage with communities and statutory consultees at the pre-application stage, using any method they feel is appropriate. There is no prescribed process and therefore communities may not fully benefit from pre-application engagement and developers will not benefit from the advantages of pre-application consultation.
- 6.46 Option 2 makes pre-application discussions with communities and statutory consultees a mandatory requirement on all major planning applications. This option would give communities confidence that their views are important; the mandatory Statement of Pre-application Consultation which will be submitted alongside the planning application to the local planning authority will indicate whether those views have been taken into account. Whilst there will also be some additional costs to statutory consultees resulting from performance reporting requirements, they are not significant. Requiring developers to engage with statutory consultees will provide more certainty and reduce risk for developers, and help to resolve technical issues before a planning application is submitted. There will be limited additional costs associated with option 2 to the developer, but it will reduce conflict and controversy at the planning application stage, reducing the risk of delay. These factors are considered to outweigh the financial cost of undertaking pre-application consultation, which would form a small part of the overall cost of preparing a major planning application. As such, option 2 is the preferred option.

Invalid applications: notice and appeals

6.47 The cost and benefit analysis undertaken in the following section has been based upon a percentage of all applications being notified as invalid and then appealed, as it was not possible to disaggregate the data into the separate types of application.

6.48 Two options have been considered:

Option 1 - Do nothing; LPAs able to determine what information is required to register a planning application without their view being challenged (other than in a limited way through the Courts).

Option 2 - Introduce a right of appeal to the Welsh Ministers against the LPAs decision not to register a planning application.

Option 1 – Do Nothing

Description

6.49 LPAs have a wide ranging power to require any information that they consider necessary in support of an application and, following the Pootschi (Secretary of State vs Newcastle upon Tyne) judgement in 2009, the LPA is the sole arbiter of what additional information is necessary with the applicant having little ability to challenge the relevance of the information requested other than through Judicial

Review. This provides no incentive for LPAs to request information in a proportionate manner and gives little option to the applicant other than to provide the information requested, often at significant cost and causing delay in the application process.

- 6.50 Prior to the Pootschi judgement in 2009, if the LPA refused to register the planning application as a valid application and the statutory determination period had expired, the applicant could appeal to the Welsh Ministers against non-determination of the application. However, the Pootschi judgement held that the Secretary of State (and therefore the Welsh Ministers in Wales) was unable to entertain an appeal against non-determination where the LPA considered the application invalid. This means that when an LPA refuses to register a planning application without an item of information, the applicant currently has little option other than to submit the information requested, which delays the application process.

Costs

Welsh Government

- 6.51 Following the Pootschi judgement, the Welsh Ministers cannot accept appeals for applications that have been deemed invalid by the LPA where an applicant has failed to provide requested information. The Welsh Ministers do not therefore currently incur additional costs in respect of non-registration of invalid applications.

Local Planning Authorities

- 6.52 Validation of an application already causes an LPA to incur costs through checking the information submitted. The LPA already incur administration costs when they write to a developer to inform them that their application has been deemed invalid, as specified by Article 8 of the DMPWO 2012. Further costs are incurred when the requested information is submitted and checked prior to registration.
- 6.53 According to Welsh Government statistics, approximately 20,000 applications are submitted each year across Wales. Based on the information being checked by a planning officer paid £14 an hour, taking 20 minutes to write a letter, and an assumption that between 5% and 30% of applications would require further information for the purposes of validation, in total LPAs will already incur a cost of between approximately £5,000 and £30,000 a year through informing applicants that further information is required to validate their application.
- 6.54 The newly submitted information must then be checked when submitted to the LPA. This is estimated to take between 20 minutes to 1 hour of planning officer time and therefore costs between £5 and £14 per application. This equates to approximately £30,000 to £85,000 in total per year for Welsh LPAs where 30% of applications require further information. If only 5% percent of applications required additional information to validate them this would equate to between £5,000 and £14,000.

6.55 LPAs are also open to challenge from third parties if they register an application without the required information, which has resulted in many LPAs taking an over-precautious approach to validation, because of the threat of legal action.

Development Industry

6.56 Disputes that arise at the validation stage delay the planning application process and ultimately delay development, which has cost implications. Requests for unnecessary information also add to the cost of preparing a planning application.

6.57 The average number of decisions made annually on householder, minor, and major planning applications between 2009 and 2013 has been used to estimate the cost of validation delays. The total additional cost per application is calculated by combining the average number of applications determined (taken from Welsh quarterly statistics data) with estimates of approximate costs for preparing a planning application by type of development and making assumption that a validation dispute (i.e. request for information and/or delays in registration) adds 10% to the cost of making an application.

Type of Application	Average annual number of applications (2009-2013)	Cost of preparing each application	Number of applications significantly delayed because of validation p.a. (30%)	Additional cost per application	Total additional cost
Householder Development	9,435	£687	2,830	£69	£195,270
Minor Development	8,430	£1085	2,500	£109	£272,500
Major Development	600	£18,613	180	£1,861	£334,980
TOTAL			£802,750		

Option 2 – Introduce a written appeal process against the LPA’s decision not to validate a planning application

Description

6.58 This option proposes to introduce a simple written right of appeal against an LPA’s decision not to register a planning application. The probability of challenge through an appeal process will have a positive influence on LPAs when validating applications, contributing towards more proportionate requests for information that they require to be submitted with an application. The appeal process will be a quick one, comprising the submission of a simple form and enclosing a copy of the LPA’s notice that the application is invalid to allow a desk based exercise carried out by a planning officer of the Planning Inspectorate on behalf of the Welsh Ministers. The appeal will concentrate on the disputed information and if the appeal is successful, the application will be handed back to the LPA to determine.

Cost

Welsh Government

6.59 There is no intention to charge appellants for appeals and so the costs for determining the appeal will be borne by the Welsh Ministers.

6.60 The costs incurred will be due to the time spent making a determination, which will be kept to a minimum since the process will be desk-based and determined by a planning officer. No site visit will be necessary and appeals will be dealt with through written representations. On initial calculations, these costs have been estimated to be £83 per appeal, based on the costings identified below:

Stage	Time	Grade	Cost
Validate & Issue	40 minutes	AA	£23
Consider & recommend	60 minutes	AO	£37
Determination	30 minutes	HPO	£23
Estimated cost per appeal		£83	

6.61 The overall cost to the Welsh Ministers of appeals is likely to be between £17,000 and £84,000 based on a predicted 1-5% of all applications (20,140) being invalid and those invalid applications being appealed against. It is expected that the actual cost will be toward the lower end of this estimate.

Local Planning Authorities

6.62 On deciding that an application for planning permission is invalid, an LPA will have to provide notification to the applicant of that decision. With the ability of applicants to appeal against the LPAs decision that their application is invalid, it is expected that LPAs will make more considered and proportionate decisions in respect of validation.

6.63 According to Welsh Government statistics, a total of 20,140 applications are submitted each year. It is estimated that the number of applications considered invalid on initial submission will range between 1 and 5%. LPA planning officers will have to justify their reasons for their decision in the notice, which will also act as their defence if an appeal is submitted. Based on an hour of planning officer time (£14) it is estimated that the cost of this procedure will range between £3,000 and £14,000 for the whole of Wales.

6.64 Where developers decide not to submit an appeal against an invalid application notice, or where their appeal is unsuccessful, LPAs will incur the cost of checking the newly submitted information (as in option 1), costing between £5 and £14 per application. The current average rate of an LPA's planning decisions being upheld on appeal is 63% (based on the annual average between 2008 and 2013). If this rate is applied to this option between 127 and 630 appeals will be upheld and so will require the applicant to submit further information. Based on the costs identified above, in total LPAs in Wales will incur a cost of between £600 and £9,500 per year to check the information required to validate applications which have been subject to an appeal. However,

this further information would be submitted in the current situation set out in Option 1, so this is not an additional cost.

Development Industry

- 6.65 Although a charge will not be made for validation appeals made to the Welsh Ministers, developers will incur an administrative cost where they make an appeal. This cost will accrue from time spent completing the appeal form and providing other written submissions to support their case. The administrative cost is based on an hour of a graduate planner/planning professional's time (based on average of fees charged by consultancies) of £40.
- 6.66 If between 1% and 5% of applications (20,140) were delayed the total cost would range from £8,000 to £40,000 each year to appeal against an invalid application notice. Where a developer decides not to appeal against a notice they would incur the cost identified in option 1 of between £70 and £2,000 per application as a result of the delay or the submission of further information. Similarly, where an appeal was unsuccessful and the LPA's notice is upheld, cost would be incurred as the developer would have to submit the required information. Above, it has been estimated that between 127 and 630 appeals will fail and so developers will be required to submit further information in this number of instances. Based on a cost of £70 to £2000 to validate an application this would result in a cost to the development industry of between £9,000 and £1.3m per year. The latter cost is very unlikely as it is expected that only 1% of applications will require further information for validation through this option, rather than the higher range of 5%. Furthermore, it is unlikely that every non-validation notice will be appealed. In many instances, the developer may simply comply with the notice. It is also extremely unlikely that all of the applications which fail on appeal will incur the highest cost to validate them. If 1% of applications are subject to a non-validation notice and are appealed and those which fail (127 average) incur the higher additional cost to validate them, the overall cost would be £250,000, which is considered to be a more realistic estimate.

Benefits

Welsh Ministers

- 6.67 Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy. The costs to the UK economy associated with delays in the planning system are estimated to cost between £700 million - £3billion a year¹⁰. If we were to assume (in the absence of detailed figures) that Wales accounted for 10% of this cost, then removing delays could benefit the Welsh economy of between £70m and £300m a year.

Local Planning Authorities

¹⁰ <https://www.gov.uk/government/speeches/planning-reforms-boost-local-power-and-growth> & www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf

- 6.68 The introduction of the standard application form and greater formality in the validation of applications since the insertion of Section 327A into the TCPA (as amended for Wales), coupled with the threat of legal challenge by third parties, has led to LPAs taking a precautionary approach to validating planning applications. This has resulted in some LPAs imposing disproportionate requests for information at the validation stage.
- 6.69 The more documents that accompany each application, the greater it will cost the LPA to validate due to the time required to review each document. We expect the proposed changes will encourage LPAs to take a more proportionate approach to requests for information and in turn reduce their administrative costs from a potential £34,000 - £113,000 down to £3,400 to £23,600.

Development Industry

- 6.70 Option 1 demonstrated that the costs incurred by developers as a result of delays caused by invalid applications can be significant. Although developers are expected to incur an administration cost in making appeals, the number of instances where applications are identified as invalid is expected to reduce as the threat of an appeal will encourage LPAs to be more proportionate in their information requests. Due to the proposed quick turn-around of the appeal against an invalid application notice, delays experienced by the developer will be kept to a minimum where the appeal is successful. It is likely that the development industry will incur a cost of between approximately £8,000 (if appeals are won) to a maximum of £250,000, across Wales. This is a considerable cost saving when compared to the costs incurred in Option 1.

Summary and Preferred Option

- 6.71 Option 1 illustrates the delays that result from the validation process and this is mainly a cost for the development industry. This option is also the highest cost option for LPAs.
- 6.72 Option 2 is the preferred option. This option, although at a cost to the Welsh Ministers compared to the current situation (option 1), will reduce the delays experienced as a result of validation of applications. The issuing of an invalid application notice, whilst introducing a formal process will not in itself introduce any significant additional costs to the LPA over Option 1.

Total costs for the preferred option: Option 2

	Existing Costs	Additional Cost / Saving from legislation	Comments
Welsh Government	-	£50,400	Annual Cost
Local Planning Authorities	£113,100	-£89,500	Annual Saving
Development	£805,750	-£671,250	Annual Saving

Industry			
	£918,850	-£710,350	

Decision Notices

6.73 Four options have been considered:

Option 1 - Do nothing; decision notices will be required to set out the permission and conditions.

Option 2 - Require decision notices to detail the approved plans and record the discharge of conditions.

Option 3 - Issue a model decision notice template with no legislation.

Option 4 - Require decision notices to detail the approved plans and record the discharge of conditions and require that decision notice template is complied with.

Option 1 – Do Nothing

Description

6.74 This option would not address the current confusing situation for stakeholders as to whether details required by conditions have been complied with. This is frequently an issue for subsequent purchasers of property, particularly of commercial property and their funders in seeking to ascertain if a development has been built in conformity with the planning permission. It will mean officers will still have to respond to queries from members of the public regarding whether a development complies with conditions by carrying out searches, or even having to visit the site.

Costs

Welsh Government

6.75 There are no costs associated with this option

Local Planning Authorities

6.76 LPAs regularly deal with daily queries in relation to whether conditions have been discharged. These queries can be face to face, over the telephone or some have to be responded to in writing. Such queries take time and so there is an associated cost.

6.77 In England the fee payable for this service is £97 per request. There is no set fee in Wales; it is a discretionary service that means there is no set pricing structure.

6.78 The task of confirming whether conditions have been discharged requires a member of LPA administration staff or a planning officer to look through the planning application file and respond to the enquiry confirming the current position of the permission. If the planning

permission relates to a householder development with few conditions then the task should take no more than 30 minutes to complete. However, for more complex developments with a significant number of conditions it could take up to 2 hours. The time it takes will also depend on the record keeping practices of the LPA e.g. how discharge of condition applications/letters are recorded and whether this information is available electronically.

- 6.79 The Planning Officers Society Wales (POSW) has indicated that three queries a day are received on average by each LPA. Therefore, on a basis that there is an average of 251 working days in a year, an assumption has been made that an LPA could receive approximately 750 queries in relation to discharges of condition per year. In order to quantify the costs of this, the following calculation has been made on the assumption of an administrative staff paid an annual salary of £18,000.
- 6.80 The cost to a LPA per enquiry (30 minutes to 2 hours) is estimated to be £5 to £20 or up to £30 for a planning officer. This equates to £3,500 to £14,000 or up to £21,000 per LPA per year. Across Wales it is estimated that responding to such queries costs between £84,000 and £530,000 each year.

Development Industry

- 6.81 Currently when property is purchased with planning permission the new owner cannot ascertain from the decision notice whether conditions have been complied with. They can however establish this by writing to, telephoning or visiting the LPA which takes time and inevitably holds up the purchase of the property and delays development. There is no fee from the LPA to provide this service but the purchaser of the land may incur conveyancing costs from legal professionals who carry out searches on their behalf. Only a proportion of the overall conveyancing cost will be for planning searches. Assuming that all enquiries involved conveyancing solicitors at an average cost of £100 per query, these queries can be reasonably assumed to cost the development industry, including homebuyers, up to £750,000 per year.

The Community

- 6.82 There are no quantifiable costs to the community. However a member of the community interested in the approved plans and conditions would have to get in touch with the LPA or arrange to visit the office to see the plans which would also give rise to additional costs for the LPA.

Benefits

Local Planning Authorities

- 6.83 There are no benefits for LPAs associated with this proposal.

Development Industry

- 6.84 There are no benefits for the development industry associated with this proposal.

The Community

6.85 There are no benefits for the community associated with this proposal.

Option 2 – Introduce a requirement that decision notices granting planning permission must detail the approved plans and record the discharge of conditions.

Description

6.86 This approach would see all decision notices listing the approved plans and require details of discharged conditions to be recorded on the notice. The new legislation would be supported by guidance.

Costs

Welsh Government

6.87 Procedural guidance on the delivery of the proposals will be developed for LPAs. These costs will be met from existing budgets.

Local Planning Authorities

6.88 In order to comply with the proposed provisions it is likely that the LPA may need to amend the format of decision notices to allow for the referencing of approved plans and recording discharge of conditions on the notice. This would require making changes to its standard decision notice template for outline, full, and reserved matters applications. This will be a one-off task undertaken by a member of administrative staff and should take no longer than a day to complete. Based on this assumption the costs should not exceed £1,200 across all LPAs in Wales.

6.89 Many LPAs currently specify the approved plans on a decision notice; these LPAs will not incur any additional costs as a result of making this requirement mandatory.

6.90 For LPAs that do not currently specify the approved plans on the decision notice, it may take an additional 1-5 minutes to produce the decision notice (so that the information is included). This time would be off-set against the time saved by not having to identify the plans by other means e.g. stamping the approved plans or imposing a condition on the permission specifying the plans. It is not considered that the requirement would impose any additional cost on the LPA.

6.91 Many LPAs have electronic document management systems where documents including decision notices, are stored. Producing a new decision notice will involve an officer making the relevant alterations or annotations to the relevant condition and the new decision notice will be generated. The time and cost taken to produce an updated decision notice confirming a discharge of condition could be done by a member of administration staff and should take a maximum of 30 minutes, depending on the number of conditions discharged, and cost no more than £5 each time the notice is amended.

- 6.92 In Wales, an average of 18,500 applications are approved each year. Most of these applications will have conditions attached but not all will require discharging formally. Assuming half have conditions which require formal discharge and take the maximum time i.e. 30 minutes to amend the decision notice, the cost of this aspect of the requirement should not exceed £46,000 annually.
- 6.93 The newly proposed system works on the principle that it will be much clearer to members of the public and developers/land owners whether a condition has been discharged. The use of local authority websites to display information and documents should mean that those with a query are able to check this information on a live decision notice themselves and so the overall number of queries should reduce from the estimated 750 per LPA identified in option 1. In addition, where queries do occur they will be less time consuming for all parties. It is anticipated that such queries should not take longer than 10 minutes to deal with by an LPA. If the number of queries reduced to one query per day or 250 a year, this should incur a maximum cost of £1,200 nationally.

Development Industry

- 6.94 Developers will receive an updated decision notice rather than a letter from the local planning authority which will mean there is no cost to the developer.
- 6.95 It will also mean the developer will potentially not incur conveyancing costs associated with planning conditions.

The Community

- 6.96 No cost to the community is associated with this proposal.

Benefits

Welsh Government

- 6.97 A benefit of this option is that it will provide a consistent approach to development management across Wales, allowing independent measurement and comparison of performance.

Local Planning Authorities

- 6.98 This option provides a cost saving of between £36,000 and £480,000 a year across LPAs in Wales. This cost saving mainly comes from a reduction in the time taken to deal with queries in relation to the discharge of conditions because the information will be easily identifiable from the decision notice. Also, the number of overall queries from the public will reduce significantly.

Development Industry

- 6.99 This will provide clarity to developers and stakeholders by identifying the complete content of a planning permission on the decision notice, therefore they will know exactly what plans they are working from, what conditions apply and whether details required by conditions have been agreed, and if so what these details are.

- 6.100 Should developers work in a number of local authority areas, they will benefit from consistency in which the way LPAs share information regarding the current status of conditions.
- 6.101 Prospective purchasers will not need to make an enquiry to the LPA and will not have the costs associated with this as they can check position of the application themselves. The development industry will achieve a potential saving of £750,000.

The Community

- 6.102 Members of the public would be able to see for themselves the decision notice containing the relevant plans and conditions for the development.
- 6.103 Members of the community would know exactly what plans are being worked to and what conditions apply.
- 6.104 If the LPA places the decision notice on their website it would allow members of the community to view the plans and conditions. Time would be saved by not contacting the LPA.

Option 3 – Issue a model decision notice template with no legislation

Description

- 6.105 This option would require the Welsh Government to provide a decision notice template specifying how decision notices should be set out and issue or update guidance on the use of conditions in planning permissions. There would be no legislation to require compliance.
- 6.106 The best practice guidance would be written by the Welsh Government with a model decision notice which should demonstrate the desired decision letter format to LPAs and would include the approved plans and discharged conditions.

Costs

Welsh Government

- 6.107 Procedural guidance on the delivery of the proposals will be developed for LPAs. The costs of this will be met by existing budget and will be undertaken by existing staff resources.

Local Planning Authorities

- 6.108 The cost to the LPA would depend on whether they follow the best practice guidance and change their current standard decision notice and working practices. There would be no mandatory requirement for the LPA to change current working practices and therefore no additional costs. If they do not adopt it, costs will be equal to those identified in option 1. If the LPA does choose to adopt the new practice, the costs would be the same as option 2.

Development Industry

6.109 If the LPA decides not to implement the guidance, the costs will be equal to those identified in option 1 and if they do they will equal the lower costs in option 2.

The Community

6.110 If the LPA decide not to implement the guidance, the costs will be equal to those in option 1 and if they do not, they will be equal to those in option 2.

Benefits

Welsh Government

6.111 Compliance with the guidance would lead to consistency across Wales

Local Planning Authorities

6.112 If LPAs follow the best practice guidance it would result in the benefits outlined in option 2.

Development Industry

6.113 The benefits of option 2 will be received if best practice guidance is followed by the LPA.

The Community

6.114 The benefits of option 2 will be received if best practice guidance is followed by the LPA.

Option Four – Introduction of mandatory decision notice template that records the approved plans discharge of conditions.

Description

6.115 Like option 2, this option will require that decision notices include a condition stating what plans have been approved and are updated to reflect when conditions have been discharged. However, this option will also require that LPAs draft a decision notice in accordance with a template provided by the Welsh Government.

Costs

Welsh Government

6.116 The Welsh Government will incur the cost of drafting and providing a template decision notice which is to be used by all LPAs. All other costs will be equal to those incurred at option 2.

Local Planning Authorities

6.117 The costs with this option will be very similar to those identified for option 2, with the exception of the one off £1,200 cost LPAs could have incurred for drafting a new decision standard notice.

Development Industry

6.118 No additional costs incurred.

The Community

6.119 No additional costs incurred.

Benefits

Welsh Government

6.120 Benefits as described for option 2.

Local Planning Authorities

6.121 Benefits as described for option 2.

Development Industry

6.122 In addition to the costs described for option 2, developers will have the advantage of receiving decision notices which are consistent throughout Wales making them easier to interpret.

The Community

6.123 Benefits as experienced at option 2.

Summary and Preferred Option

6.124 Option 1 is confusing for LPAs and developers. The current system lacks clarity and is time consuming and potentially costly to both the developer and LPA when trying to ascertain when conditions have been discharged.

6.125 Whilst producing a decision notice template and best practice guidance as suggested by option 3 is a viable option, it may not be adopted by LPAs and therefore is not likely to achieve the same consistency as introducing a requirement that decision notices must detail the approved plans and record the discharge of conditions.

6.126 Option 2 and option 4 offer similar benefits and savings. Option 2 is the preferred option as it allows greater flexibility for LPAs to adapt decision notices to reflect best practice and would improve consistency in how decision notices are issued across Wales, providing clarity to developers and stakeholders. It also provides clarity to future developers, landowners and the community about whether details required by conditions have been agreed. LPAs would make significant savings in terms of less queries received and enhanced speed with dealing with those they do receive.

Total costs for the Preferred option: Option 2/4

	Existing Costs	Additional Saving from legislation	Comments
Local Planning Authorities	£305,000	-£256,000	Annual Saving
Development Industry	£750,000	-£750,000	Annual Saving

Notification of Development

6.127 Two options have been considered:

Option 1 – Do nothing i.e. allow LPAs to continue operating without the requirement for notification of development.

Option 2 – The introduction of notification of development for major development which requires developers to notify the relevant LPA of their intention to commence development, as well as a requirement to display the relevant part of the decision notice on site.

Option 1 – Do nothing

Description

6.128 A developer is currently not required to notify the LPA when they intend to start work on site nor clarify, where multiple permissions exist, which permission is being implemented. This results in a lack of transparency and hinders effective enforcement. Developers are also not required to display a copy of the decision notice on site.

Costs

Welsh Government

6.129 There are no identifiable costs associated with the Welsh Government.

Local Planning Authorities

6.130 Currently, when an enquiry or enforcement complaint is made to the LPA in relation to the commencement of a development on site, a visit is necessary to determine what works have commenced. There may be multiple live permissions in relation to a particular piece of land and the LPA may also have to contact the relevant developer to establish which permission is being implemented in order to ascertain which conditions apply, and whether a breach of planning control has occurred.

6.131 It is estimated that these checks can take on average up to an hour of enforcement officer time. This can involve visiting the site, checking the relevant permissions, contacting the developer and responding to any associated query. Other queries may be able to be solved quickly by checking document management systems or the officer may be aware of the ongoing work on site. The estimated cost is approximately between £13,000 and £23,000 a year¹¹ in Wales. The costs relate to queries in relation to major developments only.

Development Industry

6.132 There are no identifiable costs associated with the development industry.

General Public

6.132 Where development commences on a site, the public can often be uncertain about what is being undertaken or, if there is more than one planning permission on the land, which consent is being implemented. This contributes to a lack of transparency in the existing system. In order to establish what is going on, on a particular site a member of the

¹¹ See appendix for calculations

public may have to contact the LPA, unless they have been directly informed by the developer.

Benefits

Welsh Government

6.133 There are no identifiable benefits to the Welsh Government.

Local Planning Authorities

6.134 Once LPAs have responded to a query regarding the commencement of development on site, further queries relating to the same site can be responded to at little to no cost.

Development Industry

6.135 Developers are not required to notify their relevant LPA of their intention to begin development or display a copy of the decision notice.

General Public

6.136 There are no identifiable benefits to the general public as this option would continue to cause confusion and lack of awareness of developments occurring within their locality.

Option 2 - The introduction of notification of development for major development which requires developers to notify the relevant LPA of their intention to commence development, as well as the requirement to display a relevant notice on site whilst development is undertaken.

Description

6.137 Before commencing a major development, developers would have to notify the LPA of their intentions, including stating which permission they intend to implement. The developer will have to display a notice on site for the duration of the works explaining to the public the extent of the works being undertaken.

Costs

Welsh Government

6.138 The cost to the Welsh Government would be the production of a template for the notification of development to be displayed on the site. This task would take approximately one hour; therefore, based on the average hourly wage of a planning officer being £16.35, this would result in a total cost of £16.35.

Local Planning Authorities

6.139 Upon receiving notifications, they will have to be logged on the relevant case file as a record. This should take no longer than 10 minutes of administrative staff time. The cost per notification would therefore be approximately £1.25¹². On average 600 major applications are received per year in Wales, resulting in an estimated overall national cost of £750.

¹² Based on the average hourly wage of planning administrative officer (£12:54)

6.140 It is assumed that one query per week is received per LPA regarding the commencement of a major development. This option is expected to result in a significant decrease in queries as the developer will be required to display a notice at the site informing the public that the development (and which permission) has commenced. A 50 percent decrease would mean approximately 26 queries would be received per year. The time taken to deal with these queries will also decrease to an estimated 15 minutes rather than an hour as the officer will only need to check the case file rather than making more extensive enquiries. Based on an enforcement officer hourly wage of £18.00, such queries would cost LPAs approximately £120 per year or £3,000 across Wales annually. This would result in a saving over Option 1 of approximately £800 per LPA, or £20,000 across Wales.

Development Industry

6.141 Extra costs to the developer are expected to be minimal. The notification of commencement of development could be submitted via email or post on a standard template which would, in the first instance, be produced by the Welsh Government.

6.142 The cost is comprised of time spent completing the template and displaying a site notice which has been quantified as approximately £15,000 per year throughout Wales.

General Public

6.143 There are no identifiable costs associated with the general public.

Benefits

Welsh Government

6.144 This option will allow the Welsh Government to effectively monitor the number and scale of major developments being commenced annually.

Local Planning Authorities

6.145 By informing the LPA before commencing development it provides an opportunity to check whether there are pre-commencement conditions to discharge, potentially preventing breaches of conditions and the need for enforcement action, resulting in a time and cost saving.

6.146 As planning permission may be granted years before development actually commences, the notification will provide LPAs with information on which developments are currently active within their area, enabling them to allocate resources to enforcement monitoring more effectively.

Development Industry

6.147 Increased transparency about when development is due to commence and what permission is being implemented will result in developers receiving fewer queries from LPAs. An added benefit of increased transparency is that it may improve relationships with the local community where the development is taking place as they will feel fully informed.

General Public

- 6.148 Posting a decision notice on site will improve transparency by informing local residents of the development being carried out on site. This should reduce the number of enquiries received by the LPA from the public.
- 6.149 The proposal to display a notice on site will raise public awareness of development taking place in their area. The notice would therefore provide some basic information as to the nature of the development, name and address of the developer etc. It would also include information such as the planning application reference number which would help interested parties obtain further information, such as any conditions that apply.

Summary and preferred option

- 6.150 With no current mechanism in place for notification of development, LPAs are generally unaware of when planning permissions for major development are implemented, or, if multiple permissions exist, which one is being implemented. Furthermore, the general public are also unaware of proposed developments being granted planning permission until works begin on site. The proposal to introduce notification of development will improve LPA staff resources as less time will be spent on enforcement, determining whether any pre-commencement conditions have been complied with and it will also provide clarity and transparency for the general public where development occurs within their locality. Therefore, option 2 is the preferred option.

Consultation in Respect of Certain Applications for Planning Permission

- 6.151 Three options have been considered:

Option 1 - Do nothing i.e. no provision for statutory consultation.

Option 2 - Statutory consultation at the discretion of the LPA.

Option 3 - Statutory Consultation must be undertaken in all instances.

- 6.152 In relation to applications which are not applications for planning permission, such as for a consent, agreement or approval required by the terms of a planning permission, it is proposed to give LPAs the discretion to decide whether to consult the statutory consultees who were consulted on the original planning application. Where the LPA chooses to exercise this discretion, it is intended that the statutory consultee is bound by duties to provide a substantive response within a set time frame.

Option 1 – Do nothing

Description

6.153 Applications for approval include applications for the approval of planning conditions and reserved matters. Currently, if an application for approval is submitted the LPA will consult stakeholders they consider relevant. Often these will be bodies who commented on the original application in relation to the particular matter for approval. The information sought from consultees can often be vital in the determination of the application especially if, for example, it relates to a technical condition they specifically requested be attached to the planning permission. There is no duty on consultees to respond to these consultations and so delay can occur in the approval of these matters.

Costs

Welsh Government

6.154 There are no additional costs associated with this option; however, the economy of Wales will continue to be affected by the delay experienced in the determination of applications.

Local Planning Authorities

6.155 Delay can be experienced in the determination of an application and additional staff resources may be used to chase responses from consultees and seek clarification as there is currently no duty to provide a substantive response within a set time frame.

The Development Industry

6.156 Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy.

Statutory Consultees

6.157 There are no additional costs to statutory consultees arising from this option because they can choose whether they wish to respond to a consultation and respond at their convenience if they so wish.

Benefits

Welsh Government

6.158 There are no identified benefits to the Welsh Government associated with this option.

Local Planning Authorities

6.159 There are no identified benefits to LPAs associated with this option.

The Development Industry

6.160 There are no identified benefits to the development industry associated with this option.

Statutory Consultees

6.161 If the current system remains as it is, consultees will continue to benefit from having no statutory time limits within which to return their

responses, or incentive to provide an appropriate level of detail required in their response.

Option 2 – Statutory consultation at the discretion of the LPA

Description

6.162 This option will give LPAs the discretion to decide which of the 'statutory consultees' from the original application they consider should be consulted in relation to a particular application for approval. Where they do consult a particular body, that body will be bound by the requirements, to provide a substantive response within a particular timeframe and produce performance reports to detail their compliance.

6.163 It is important that this is a discretionary power, as compulsory consultation in all instances i.e. of all original statutory consultees in relation to each application for approval, could result in unnecessary consultation and would be an inefficient use of resources.

Costs

Welsh Government

6.164 Costs to prepare the required guidance have been calculated as part of the suite of guidance required to implement provisions within the PWA. This is anticipated to cost around £150,000 and includes production, translation, publication and dissemination of the guidance, and will be met from existing budgets.

Local Planning Authorities

6.165 There will be no additional costs to the LPA as it will be their discretion whether to consult or not and this option represents formalisation of the existing informal procedure. If the LPA does decide to consult, the statutory consultee(s) will be obligated to submit a substantive response within a given deadline, reducing the need to chase the information. If LPAs chose to consult in every instance the costs are the same as those set out in option 3.

The Development Industry

6.166 No additional cost to the development industry or land owners because this option could lead to a reduction in delay in determining applications.

Statutory Consultees

6.167 This option will be cost neutral as it represents formalisation of an existing informal process.

Benefits

Welsh Government

6.168 Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy.

Local Planning Authorities

6.169 There will be reduction in the delay in issuing a decision for an application for approval as the need to consult will be discretionary for the LPA to decide.

6.170 LPAs will also have the ability to access important information to assist in determining an application for approval as there will be a duty placed on statutory consultees to provide a substantive response (which should include all the information requested and required by the LPA).

The Development Industry

6.171 The development industry will benefit from reduced delays as identified in option 1.

Statutory Consultees

6.172 This option provides statutory consultees an opportunity for more efficient use of their resources and they would only be required to provide a response, should the LPA determine that their input is necessary to determine the application. Furthermore, the provisions set out a clear framework for what information the consultee needs to have received from the LPA before the 21 day period starts.

Option 3 – Statutory Consultation must be undertaken in all instances

Description

6.173 This option would require consultation with all bodies consulted on a statutory basis in relation to the original application, in respect of each application for approval. The main concern with this option is that it would result in unnecessary consultation and so represent an inefficient use of resources for both LPAs and those bodies required to respond. This would in turn lead to delay in the determination of an application as the LPA would have to analyse and report all responses.

Costs

Welsh Government

6.174 Costs for the required guidance document are set out at the end of the development management section in option 2.

Local Planning Authorities

6.175 The LPA will spend extra time carrying out unnecessary consultations. Although the cost per consultation is low at approximately £3 (20 minutes of administrative staff time), the volume of consultations needed to be carried out would result in a much larger additional cost. On average 18,400 planning permissions are granted every year in Wales, if these applications contained just two conditions each the additional cost would equal approximately £110,000 per year.

6.176 The LPA would also incur additional cost to analyse and consider all of the responses received, since consultees would be bound by legislation to respond.

The Development Industry

6.177 Unnecessary delay would occur where consultations are required increasing the overall cost of delay.

Statutory Consultees

6.178 This option would require consultees to respond to unnecessary consultations. This would result in additional cost as it goes beyond formalisation of the existing procedure and would be an inefficient use of resources.

Benefits

Welsh Government

6.179 There is no benefit from this option which is inefficient and will result in additional cost to the Welsh economy.

Local Planning Authorities

6.180 LPAs will have the ability to access important information to assist in determining an application for approval. Offsetting this they will also receive unnecessary responses which will need to be considered (which should include all the information requested and required by the LPA).

Development Industry

6.181 There are no perceived benefits to applicants. Although the delay in receiving determinations owing to slow or disproportionate consultation responses should be eradicated, this option will result in unnecessary consultation and prevent LPAs from making swifter decisions where they consider consultation is not required.

Statutory Consultees

6.182 No perceived benefits to statutory consultees because they will have to use additional resources responding to unnecessary consultations.

Preferred Option

6.183 Option 1 reflects the current situation where consultees do not have to respond to informal consultations by LPAs which may delay decision making.

6.184 Option 2 is the preferred option. Although option 3 does ensure that LPAs receive all of the necessary information in order to be able to make a fully informed decision in respect of an application for approval, there will be wasted effort in terms of unnecessary consultations and responses. Option 1 on the other hand does not present a means of ensuring that delay is reduced and so will not result in any cost savings. Option 2 is therefore the most beneficial in terms of reducing delay and making the most efficient use of resources by ensuring that LPAs are able to obtain the information they need to make timely decisions.

Statutory Consultees (List of consultees, development descriptions and consultation criteria)

- 6.185 In relation to the current list of statutory consultees set out in schedule 4 of the DMPWO 2012 and the proposed amendment of the corresponding consultation criteria, it is not considered there will be any increase in the financial burden on LPAs. The amendment of consultation criteria will result in some consultees being sent more consultations while others are sent less. Overall the likely effect is no change in the number of consultations sent. The addition of a flood risk category to Natural Resources Wales will serve to reflect existing non-statutory requirements to consult under guidance in Technical Advice Note 15: Development and Flood Risk.
- 6.186 In making WASU statutory consultees, additional administrative and processing costs for LPAs will be negligible as around 90% of them consult electronically. The few LPAs that issue consultation requests by post would experience an administration cost increase of an estimated average of £1200 per annum.

Design and Access Statements

6.187 Three options have been considered:

Option 1 - Do nothing (ie. retain existing mandatory requirements for Design and Access Statements in legislation).

Option 2a - Simplify the statutorily prescribed content of Design and Access Statements.

Option 2b - Amend the threshold for applications that require the submission of a Design and Access Statement.

Option 1 – Do Nothing

Description

- 6.188 This option would retain the existing mandatory requirement for Design and Access Statements for most planning and listed building consent applications.
- 6.189 Design and Access Statements are a communication tool explaining how the objectives of good design have been considered from the outset of the development process.
- 6.190 The main roles of a Design and Access Statement are:
- to ensure that the developer can provide evidence to justify proposals in terms of planning policy (national and local).
 - to explain how the objectives of good design have been applied, or where they have not been applied, the reasons for that.
 - to clearly set out the established vision and principles for the scheme.

- to demonstrate that the principles of sustainability have been addressed and used to inform the design of the development.
- to illustrate how the developer has considered conflicting demands and the extent to which these considerations have influenced the proposed development.
- to ensure that the developer has satisfactorily considered design issues early in the design process and that potential problems are highlighted before detailed design work commences.
- to demonstrate how design decisions have been influenced through the reappraisal of the design.

Cost

6.191 There are no additional costs associated with this option. However, research commissioned by the Welsh Government 'Review of Design and Access Statements in Wales'¹³ found no evidence that the preparation of a Design and Access Statement has explicitly led to an improvement to the design of developments. They also identified that in certain circumstances, particularly for smaller applications by inexperienced applicants, the requirement to produce a Design and Access Statement is often ineffective. Design and Access Statements are often perceived as a 'box-ticking' exercise and are prepared to meet the requirement for an application to be validated. In these circumstances the cost to developers to prepare a Design and Access Statement is not positively contributing to the design or decision-making process.

6.192 The 'Review of Design and Access Statements in Wales' concluded that Design and Access Statements are not helping address accessibility issues due to the lack of knowledge of the participants and the lack of resourcing for expert input on the issue at the right stage.

Welsh Government

6.193 No additional costs incurred.

Local Planning Authority

6.194 There are no additional costs associated with this option. However, the delay caused by planning applications being submitted with poor Design and Access Statements, that result in applications being notified as invalid or additional information being required, will affect local planning authorities' planning service and cost more than they would otherwise in terms of administration resources.

Development Industry

6.195 The requirement in legislation for a Design and Access Statement to be submitted, and for the statement to address specific aspects of development, can result in applications being notified as invalid and delays caused to the planning process.

¹³ Welsh Government, Review of Design and Access Statements in Wales, November 2013
<http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/review-of-design-and-access-statements-in-wales/?lang=en>

6.196 In terms of the cost to developers from delays to the planning system, the Department for Communities and Local Government (DCLG) contend that planning delays cost the UK economy £3 billion a year¹⁴. Whilst this figure has been challenged by the Royal Town Planning Institute¹⁵, other published research¹⁶ estimates the cost of planning delays to be at least £700 million per year. Whilst it is difficult to estimate the exact cost, it is apparent that delayed planning decisions place a significant financial burden on developers and the Welsh economy.

6.197 The 'Review of Design and Access Statements in Wales' identified that there are variations between local planning authorities in how Design and Access Statements are scrutinised before the validation of an application which results in inconsistency and frustration from developers.

The Community

6.198 No additional costs incurred.

Benefits

6.199 There are no identified benefits to this option. However, it is acknowledged that, when prepared well, Design and Access Statements can benefit developers, applicants, local communities and local planning authorities. They can:

- inform decision-making from the outset through the pre-application/application stages to implementation on site.
- provide an opportunity for the applicant, developers and designers to demonstrate their commitment to inclusive design and show how access arrangements make reasonable provision to ensure that all users will have equal and convenient access.
- provide an opportunity for the applicant, developers and designers to demonstrate how they have responded to the need for sustainable buildings. In particular, how they have sought to reduce carbon emissions associated with new developments to deliver low and zero carbon buildings.
- help all those assessing the application to understand the rationale that underpins the development proposal, assisting in their negotiations and decision-making.
- enable local communities, access groups, amenity groups and other stakeholders to understand the rationale underpinning the development proposal and thus to make effective representation on proposals.
- lead to an improvement in the quality, sustainability and inclusiveness of the development.
- make applicants more aware of issues that should be considered.

¹⁴ Department for Communities and Local Government, Planning Reforms Boost Local Power and Growth, September 2011 <https://www.gov.uk/government/speeches/planning-reforms-boost-local-power-and-growth>

¹⁵ Royal Town Planning Institute, Myth Number 3: Planning is Costly

<http://www.rtpi.org.uk/knowledge/core-issues/planning-myths/myth-number-3-planning-is-costly/>

¹⁶ The Killian Pretty Review, Planning applications: A faster and more responsive system, Final Report, November 2008 www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf

Option 2 (a) – Simplify the statutorily prescribed content of Design and Access Statements.

Description

6.200 This option would remove the requirement to explain the specific design principles that have been applied to “environment sustainability”, “movement to, from and within the development”, “character” and “community safety”. In addition, remove the requirement to give details concerning maintenance in respect of access features and reduce the number of statutory definitions in respect of Design and Access Statements.

6.201 The legislation would retain the more general requirement for Design and Access Statements to explain how design concepts and principles have been applied and access considerations have been taken into account. The specific aspects would be addressed in Technical Advice Note (TAN) 12: Design, rather than in secondary legislation, setting out that these categories should be addressed where they are relevant to the development being proposed.

Cost

6.202 This option could result in Design and Access Statements that fail to address specific aspects of a proposal that may be important for the determination of the application. This could result in the local planning authority having to request additional information which, if not identified early, could result in the application being delayed refused.

Welsh Government

6.203 No additional costs incurred. The change will be communicated to professional audiences through the publication of guidance and informative letters. These costs will be met from existing budgets.

Local Planning Authority

6.204 If local planning authorities have to request additional information, and do not identify this early, this could delay their determination of planning applications and lead to increased administration costs. However it is not anticipated that these would be greater than in option 1, and with the introduction of a mandatory pre-application service it is anticipated that design criteria to be included in a Design and Access Statement can be clarified at an early stage, thus reducing any cost further.

Development Industry

6.205 If applicants fail to address specific aspects of a proposal, that are important to the determination of the application, this could result in their planning application being delayed or refused. Whilst it is difficult to estimate the potential cost implications, it is important to recognise the financial burden that delays have on developers and the Welsh economy.

The Community

6.206 No additional costs incurred.

Benefits

6.207 The 'Review of Design and Access Statements in Wales' suggests that many Design and Access Statements address each of the specific categories, which legislation requires must be explained, even when they are not relevant to the proposal. The consequence of this is the inclusion of sometimes lengthy but unnecessary material in Design and Access Statements.

6.208 This option would address the issue of Design and Access Statements often being perceived as a 'box-ticking' exercise, for validation purposes, and as a result containing irrelevant and unnecessary information.

6.209 This option would reduce delays caused by applications being invalidated, due to Design and Access Statements not adequately addressing the categories set out in legislation, and lead to more relevant content and a more streamlined process.

Welsh Government

6.210 This option would improve the planning system. Simplifying the requirements for Design and Access Statements would result in an improved, streamlined and more proportionate process.

Local Planning Authority

6.211 The aim of this option is to improve the quality of Design and Access Statements, making them more concise and relevant to the proposal. This would assist local planning authorities in using Design and Access Statements in assessing planning applications.

Development Industry

6.212 This option would have a positive effect on the development industry. It would reduce delays caused by applications being notified as invalid. Whilst it is difficult to estimate the exact resultant cost savings, it is important to recognise the financial burden that delays have on developers and the Welsh economy. This option would also help applicants improve the quality of Design and Access Statements, removing the need to spend unnecessary time and resources addressing issues irrelevant to the proposal.

The Community

6.213 This option should result in improved Design and Access Statements, with more relevant content, which would have a positive impact on those seeking to understand applications.

Option 2(b) – Amend the threshold for applications that require the submission of a Design and Access Statement.

Description

6.214 This option would amend secondary legislation to change the development description so that a Design and Access Statement is only

required to accompany a planning application for major development. Major development is defined in the DMPWO 2012. However, the option would exclude mining / mineral operations and waste developments, applications for permission to develop land without compliance with conditions previously attached, made under section 73 of the TCPA, and those applications solely for a material change in use of land or buildings (not involving operational development). The requirement would apply to a wider range of development types in Conservation Areas and World Heritage Sites.

6.215 This option would reduce the number of applications that require a Design and Access Statement. The 'Review of Design and Access Statements in Wales' indicates that whilst Design and Access Statements can be a useful communication tool, particularly for large/complex applications, they can be an over-elaborate requirement for some schemes. The need to provide a document that covers the same information for very small developments as a 'major development' causes frustration and as a result reduces the overall effectiveness of Design and Access Statements. In some cases the requirement of a Design and Access Statement adds unnecessary costs to the application process whilst adding little to the design or decision making process.

Cost

6.216 This option could result in applications not being accompanied by a Design and Access Statement where, despite being below the mandatory threshold, they would benefit from having the design and access issues explained. This could result in the local planning authority having to request additional information which, if not identified early, could result in delays to determining applications or applications being refused.

Welsh Government

6.217 No additional costs incurred as the costs of producing any guidance will be met from existing budgets.

Local Planning Authority

6.218 If local planning authorities have to request additional information, and do not identify this early, this could delay their determination of planning applications and increase administration costs. It is anticipated however that under this option, costs would reduce from those under Option 1 as the local planning authority would not (in the main) be receiving Design and Access Statements from minor or householder development proposals which account for the majority of planning applications made in Wales.

Development Industry

6.219 If applicants fail to provide sufficient information required to determine an application, this could result in their planning application being delayed or refused. Whilst it is difficult to estimate the potential cost implications it is important to recognise the financial burden that delays have on developers and the Welsh economy.

The Community

6.220 This option should not have an adverse effect on communities. Although Design and Access Statements have been identified as a useful communication tool, they are considered most appropriate for larger, more complex planning applications.

Benefits

6.221 This option would remove the burden of providing a Design and Access Statement for smaller forms of development, where it might not be appropriate, and would streamline the planning application process.

6.222 This option would retain the requirement for Design and Access Statements for larger/complex projects, and those in sensitive areas, where the evidence suggests there are benefits to having a Design and Access Statement.

6.223 For proposals not subject to the mandatory requirement, applicants would retain the option of submitting a Design and Access Statement on a voluntary basis. In such circumstances, applicants would maintain the opportunity to explain and clarify features of the design where they considered it appropriate.

Welsh Government

6.224 This option would result in a streamlined and more proportionate planning application process.

Local Planning Authority

6.225 This option would reduce the amount of information that local planning authorities have to consider in determining planning applications.

Development Industry

6.226 Removing the burden of providing a Design and Access Statement for smaller forms of development is estimated to have a potential annual cost saving of £3,629,500 to the development industry¹⁷.

The Community

6.227 There are no identified community benefits associated with this option.

Summary and Preferred Option

6.228 Option 2 (consisting of two components, 2(a) and 2(b)) is the preferred option as the removal from legislation of the requirement for Design and Access Statements to address the specific aspects of a development, would reduce delays caused by applications being notified as invalid and lead to more relevant content and a more streamlined process. Removing the burden of providing a Design and Access Statement for

¹⁷ It is estimated that there will be an annual cost saving of £1,577,000 for residential development and £2,052,500 for non-residential development. This is based on an estimated cost of producing a Design and Access Statement of £500 for minor development. The cost saving has been calculated based on the average number of planning applications for minor development submitted during the 2013/14 and 2014/5 financial years.

smaller forms of development would also streamline the planning application process.

6.229 Option 1, the current approach, has failed to improve to the quality of design and is not helping address inclusive access arrangements and also causes delays to the planning process.

Local Development Orders

6.230 The Explanatory Memorandum (including RIA) of the Planning (Environmental Impact Assessment) (Wales) Regulations 2016 contains the RIA of this proposal.

Post Submission Amendments

6.231 The following options were considered:

Option 1 - Do nothing – Do not introduce a four week extension to the timescale to determine a planning application where post submission amendments are made.

Option 2 - Introduce a four week time extension to the period in which an LPA must give notice of a decision where a post submission amendment has been submitted to the LPA.

Option 1 – Do nothing

Description

6.232 LPAs would continue to consider post submission amendments on an ad hoc basis without any certainty that they can still make a decision within the statutory timescale set out in the DMPWO 2012.

Costs

Local Planning Authority

6.233 Where post submission amendments are made they will need to be approved and determined by the LPA. Under the current system they undertake this work without there being an additional time allowance specified in the regulations which creates an element of uncertainty as to timescales for reaching a decision.

Development Industry

6.234 Under the current system, there is no time period identified for when a decision should be made, and therefore the developer is uncertain as to when they could lodge an appeal for non-determination following the introduction of post submission amendments.

Benefits

Local planning authorities

6.235 There are no benefits to LPAs under the current system as they are undertaking additional mandatory work for which they do not receive a fee. This will have a direct impact upon resources.

Development Industry

6.236 There is no clear benefit to the Development Industry of maintaining the current ad hoc process and the uncertainty of timescales for making a decision.

Option 2 – Introduce provision to allow for an additional 4 weeks before an LPA must notify an applicant of a decision where an amendment is made to the application prior to its determination

Description

6.237 This option proposes the introduction of an additional four weeks before an LPA must notify an applicant of a decision where an amendment is made to the application prior to its determination.

Costs

Development Industry

6.238 Where a post-submission amendment for a major application is made by a developer there will be an additional allowance of time (four weeks) for the LPA to process this information, re-consult (if necessary) and make its determination. As post-submission amendments can already be made it is not anticipated that there will be additional production costs incurred in submitting new information. However, associated with these provisions there will be a fee of £190. The fee costs are not included within this EMRIA as they have been covered in the EMRIA for The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) (Amendment) Regulations 2016. It is anticipated that with greater statutory emphasis on pre-application LPA services and consultation the need for post-submission amendments would be reduced significantly.

Local planning authorities

6.239 As LPAs currently process post submission amendments there are no additional direct costs to the LPA in undertaking this element of the process.

Benefits

Development Industry

6.240 There is no real direct benefit to the development industry, however the introduction of a four week time period does provide greater certainty as to when a decision should be issued following the introduction of a post-submission amendment, which will assist the development industry to plan the delivery of the project. Once this period has elapsed (and providing that no extension of time has been agreed) it would be possible to appeal against a decision that the application is invalid, and apply for the return of the fee.

Local planning authorities

6.241 The introduction of the four week extension to the time within which a local planning authority must inform the applicant of a decision does ensure a consistent approach, and provides enough time for the LPA to consult statutory consultees and amend reports prior to making a decision. This ensures that an LPA can still record a decision as being made within the required timescale. However for more complex cases it will still be possible (as currently is the case) for an LPA to agree an extension of time with the applicant.

Preferred option

6.242 Option 2. The proposal is intended to reinforce the Welsh Government's positive planning programme and make the planning system more efficient. The proposals ensure that LPAs are not penalised for the submission of amendments to a planning applications late in the process, ensuring they have a fair opportunity to meet the statutory determination target. It is considered that the proposed four week extension of time may also act to encourage schemes to be finalised and agreed at the pre-application stage. If this is achieved then the need for post submission amendments will actually be reduced, resulting in a faster and more efficient system.

Amend the notification and consultation requirements for an application that falls within Section 73 of the TCPA1990

6.243 Two options have been considered:

Option 1 – Do nothing i.e. continue with the current arrangement for section 73 applications. The notification and consultation requirements for applications that fall within Section 73 of the TCPA will remain the same as those for a full planning application.

Option 2 – Amend the notification and consultation requirements associated with planning applications that fall within Section 73 of TCPA, so that where an application does not concern development subject to Environmental Impact Assessment (EIA), or would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way) applies, the LPA has discretion over the process.

Option 1 – Do nothing

Costs

Local planning authority

6.244 The LPA will continue to incur costs to undertake the processing and consideration of consultations. The LPA must undertake consultation, as set out in schedule 4 of DMPWO 2012 on all section 73 applications.

6.245 Around 20,000 planning applications are made every year in Wales. On average Section 73 applications account for 8.7%¹⁸ (1,914) of all applications. The cost per consultation is approximately £5.20¹⁹. Therefore, if each Section 73 application generated three consultations, the cost would be approximately £30,000 per year. The LPA would also incur costs to analyse and consider all of the responses received, since statutory consultees are bound by legislation to respond.

6.246 The LPA will continue to incur costs to prepare notification letters and consider any responses received. The cost per neighbour notification is approximately £3.13. Therefore, if each application generated eight notifications, the cost would be approximately £48,000 per year across Wales. Should the application require a press notice, as it falls within Article 12(2) or 12(4) of the DMPWO 2012, the cost is an additional £1200 per application. The LPA would also incur costs to analyse and consider all of the responses received from this process.

Statutory consultees

6.247 Around 20,000 planning applications are made every year in Wales. On average Section 73 applications account for 8.7% (1,914) of all applications. The cost per consultation has been calculated at between £15 and £420 dependent upon its complexity, for the statutory consultee.

The public

6.248 The formal notification process as set out in DMPWO 2012 enables the public to find out for themselves details of such applications and engage in the application process. However, members of the public may be informed or consulted on applications that may not be of interest to them, as they may relate solely to amendments that are minor in nature. This could cause confusion and misunderstanding over the application. There is cost to interested parties and the general public in participating in the planning process but the costs of engagement are not possible to quantify.

Benefits

Local planning authority

6.249 The provisions provide a statutory requirement for consultation and notification with specified persons, likely to include the public and statutory consultees, in the planning application process. As the community and consultees are made aware of draft proposals and have an opportunity to engage in the process there may be a reduced risk of challenge to any decisions made as the LPA will have access to their opinions.

Statutory consultee

6.250 The formal consultation process provides an opportunity for statutory consultees to engage in the process. However, they may be consulted on applications that may not be of interest to them, as they may relate solely to amendments that are minor in nature, and are unlikely to have

¹⁸ Study to Examine the Planning Application Process in Wales 2010 GVA Grimley

¹⁹ See appendix

an impact on their functions. As the consultee has a duty to respond, they must expend time and resources carrying out this function which may be better used within their planning function.

Public

6.251 The formal notification process enables the public to find out for themselves details of applications and provides an opportunity to engage in the process. However, members of the public may be informed or consulted on applications that may not be of interest to them, as they may relate solely to amendments that are minor in nature, and are unlikely to have an impact on them. Due to the nature of Section 73 applications, where the LPA shall consider only the question of the conditions subject to which planning permission should be granted, this can create confusion to the public as to what they are notified of.

Option 2 – Provide discretionary notification and consultation requirements for an application that falls within Section 73 of the TCPA1990

Costs

Local planning authority

6.252 The proposed procedure when compared to Option 1 will be quicker and cheaper to administer and process. It will be less resource intensive, with less procedural requirements to administer and less information to evaluate in determining such an application.

6.253 The LPA will no longer be required to spend time carrying out unnecessary consultations. As the consultation process is discretionary the LPA may choose to continue to fully consult on applications (for example, where it raises novel or complex considerations). If LPAs chose to consult in every instance the costs are the same as those set out in option 1. However, it is considered that consultation on these applications will reduce. With discretionary consultation it is anticipated there will be an average of two consultations per application. Therefore the saving to LPAs is approximately £20,000 per year. This represents an estimated saving of approximately £10,000 per annum compared to Option 1. There will also be a further cost saving to LPAs due to there being fewer responses to analyse and consider.

6.254 With discretionary notification, the cost for the LPA will also reduce. As the process is discretionary the LPA may choose to continue to notify fully on applications. If LPAs chose to notify in every instance the costs are the same as those set out in option 1. It is anticipated that notification will reduce to four letters per application. Therefore, the cost would be approximately £24,000 per year across Wales. This represents an estimated saving of approximately £24,000 per annum compared to Option 1. Where a press notice is no longer required, there is an additional saving of £1260 per application.

Statutory consultees

6.255 This option will give LPAs the discretion to decide which of the 'statutory consultees' from the original application they consider should be consulted in relation to a particular application for approval. This means that where the consultee no longer needs to provide an opinion, they will save time and resources by not considering a change and providing a response.

6.256 It is expected LPAs will continue to consult on complex applications. Therefore the costs saving are expected to be nearer the lower figure presented above of £15 per application.

The public

6.257 Members of the public will still be informed of applications via a site notice and where the application concerns development subject to an EIA or would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way) via the current process. Further, the notification of community councils will still be undertaken on all applications.

6.258 There is a cost to interested parties and the general public in participating in the planning process. It is anticipated members of the public will now only be informed of applications that are of interest to them. As identified in Option 1 the costs of engagement are not possible to quantify.

Benefits

Local planning authority

6.259 The proposed procedure in comparison will be quicker and cheaper to administer and process. It will be less resource intensive, with less procedural requirements to administer and less information to evaluate in determining such an application.

6.260 There will be reduced delay in issuing a decision for an application for approval as LPAs will not be required to wait for consultation responses to be received.

Statutory Consultees

6.261 This option provides statutory consultees an opportunity for more efficient use of their resources and they would only be required to provide a response, should the LPA determine that their input is necessary to determine the application. The time and resources saved may now be used elsewhere within their planning function.

The public

6.262 Members of the public will still be informed of applications via a site notice, through the Community Council, and where the application concerns development subject to EIA, or would affect a right of way using the current process. This should ensure that the public is provided an opportunity to engage in larger applications that may be of interest to a wider number of people.

Summary and preferred option

6.263 Option two is the preferred option as providing the LPA with discretion over who should be notified and consulted on the application would allow for a more targeted approach to these processes; reducing burden on the LPA, consultees and removing confusion as to the effect of the application. Enhanced consultation for certain applications that may affect a wider area will ensure that the wider public (and not just those that live near to the application) are made aware, and provided an opportunity to be involved in the consenting process on these applications.

7. Overall Costs and Savings of all Provisions

7.1 The table below provides a summary (where quantified) of the overall average costs and savings anticipated to result for the Welsh Government, Local Planning Authorities, Development Industry, and the public as a result of implementing the preferred options for each provision against the current situation. Where a range of values has been identified the mean value has been used for the purposes of the table.

Sector	Cost of Implementation over the “Do Nothing” option (£)	Saving (£) as a result of implementing preferred option	Overall Impact (+ = beneficial/- = detrimental)
Welsh Government	£200,000	£125m*	+£124.8m
LPAs	£53,000	£348,000	+£295,000
Development Industry	£404,000	£4.53m	+£4.13m

*based on the assumption of the mean of 10% of cost of delays to UK economy relates to Wales.

Appendix 1 (Cost Figures).

LPA costs

Figures

Position	Average Salary	Total#	Hourly
Planning technician/ admin	£18,140	£24,140	£12.54
Planning/Enforcement Officer	£22,500	£30,500	£15.85
Senior/Principal Officer	£28,550	£37,800	£19.64

*Figures have been rounded

On Costs include:

- Accommodation
- Advertising/publicity
- Finance
- IT
- National insurance and pension contributions,
- Personnel/ recruitment
- Phone/postage
- Publications and professional fees
- Stationary and reprographics
- Training
- Travel and subsistence

Statutory consultee costs

Figures

	Statutory consultee			
	Average Salary*	On Costs#	Total*	Hourly
HEO	£30,650	£8,800	£39,450	£18.97
EO	£24,450	£7,000	£31,450	£15.12

*Figures have been rounded

On Costs include:

- Accommodation
- Advertising/publicity
- Finance
- IT
- National insurance and pension contributions,
- Personnel/ recruitment
- Phone/postage
- Publications and professional fees
- Stationary and reprographics
- Training
- Travel and subsistence

Appendix 2 – Competition Filter

Competition Assessment

A competition filter test has been completed for the legislation, this is presented below:

The competition filter test

Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of firms?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No