



Heads of Planning  
Local Planning Authorities in Wales

1 November 2021

Dear Colleagues,

**DEVELOPMENT PROCEDURE (CONSULTEES) (WALES) (MISCELLANEOUS AMENDMENTS) ORDER 2021 - FIRE AND RESCUE AUTHORITIES**

The 'Fire and Rescue Authorities becoming statutory consultees in the development management process' consultation document was published on 28 July 2020. A summary of the consultation responses received has been published on the [Welsh Government website](#).

This letter explains changes made to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 ("DMPWO") and the Developments of National Significance (Procedure) (Wales) Order 2016 ('DNSPWO') (referred to collectively as "the Procedure Orders") in response to the consultation.

[The Development Procedure \(Consultees\) \(Wales\) \(Miscellaneous Amendments\) Order 2021](#) ("the Order") was laid on 27 October. The Order amends the Procedure Orders to introduce Fire and Rescue Authorities (FRAs) in Wales as 'statutory consultees' (including references to 'specialist consultees') for certain types of development at both pre-application and post-submission stages. This will apply to planning applications to be determined by local planning authorities (LPAs) and Developments of National Significance (DNS) applications determined by the Welsh Ministers.

The Order also makes consequential amendments to the criteria by which the 'natural resources body for Wales' (Natural Resources Wales) is consulted on matters of flood risk as a result of the replacement of the current TAN 15 development advice map with a new Flood Map for Planning. Further information on the changes to TAN 15 is set out in my letter dated 28 September.

The practical effect of the Order in respect of FRA becoming a statutory consultee is set out below.

**Statutory Pre-application consultation (by developers)**

Prior to the submission of a planning application to the LPA, developers will be required to consult the relevant FRA for the following types of development:

- waste development (as defined in Article 2 of DMPWO);

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- the provision of dwellinghouses where either the number of dwellinghouses to be provided is 10 or more or the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the number of dwellinghouses to be provided is 10 or more;
- the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- development carried out on a on a site having an area of 1 hectare or more.

### Validation - pre-application consultation report (PAC)

Developers may voluntarily undertake consultation with FRAs from 24 January 2022. However, developers will be required to demonstrate in the PAC that they have consulted FRAs in relation to any application (for a development type listed above) submitted to LPAs on or after 25 April 2022. Applications submitted before that date must be validated in any case (i.e. even where the formal PAC does not evidence consultation has been undertaken with FRAs) providing all other validation criteria (application form, drawings etc.) are met.

### Developments of National Significance (DNS)

Prior to the submission of a DNS application to Welsh Ministers, developers will be required to consult the relevant FRA for the following types of development:

- waste development;
- the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- development carried out on a site having an area of 1 hectare or more.

### **Post-submission consultation (by LPAs)**

LPAs must consult FRAs prior to determining an application for planning permission (that is validated on or after 25 April 2022) for the following types of development:

- a) waste development (as defined in Article 2 of DMPWO);
- b) the provision of dwellinghouses where either the number of dwellinghouses to be provided is 10 or more or the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the number of dwellinghouses to be provided is 10 or more;
- c) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more;
- d) development on a site having an area of 1 hectare or more;
- e) development which provides ten or more flats (whether by increasing the number of flats within an existing building or otherwise); or
- f) development which provides residential accommodation of ten or more rooms, not contained in dwellinghouses or flats, which are not solely used for cooking purposes and are not toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.
- g) development which provides residential accommodation of ten or more rooms contained in a dwellinghouse or flat used as a house in multiple occupation, which are not solely used for cooking purposes and are not toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.

LPAs will be familiar with the types of developer listed in points a) – e) above. In respect of points f) and g), this is intended to cover other forms of 'residential' development including (but not limited to) hotels, care homes, student accommodation and HMOs.

Whilst there is no requirement for LPAs to begin consulting FRAs on planning applications until 25 April 2022, should a FRA receive a formal consultation request from an LPA between 24 January 2022 and 25 April 2022, a statutory response must be provided.

It will remain at the discretion of the LPA as to whether to consult FRAs on applications for development not listed above. FRAs are not however required to provide a substantive response to any such consultation.

### **LPA consultations on applications for approval, consent or agreement relating to a planning application**

In line with the current approach for consulting statutory consultees, it will be at the discretion of the LPA as to whether to consult FRAs further on applications for approval, consent or agreement relating to a planning application on which they were initially consulted. A substantive response will be provided by FRAs.

### **Post-submission consultation (by Welsh Ministers)**

The Welsh Ministers will consult FRAs before determining a DNS application for the following types of development:

- waste development;
- the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- development carried out on a site having an area of 1 hectare or more.

### **Substantive Response**

As for existing statutory consultees, once consulted on the specified types of development, FRAs will be required to provide a 'substantive response' within specified timeframes to consultation requests from developers at the pre-application consultation stage and from LPAs and the Welsh Ministers at the post-submission consultation stages of the application process.

From previous discussions with FRAs and representations submitted through the public consultation exercise on the Order, the key planning matters of consideration and the focus of FRA's responses will be:

- Access – ensuring adequate access to a site for appropriate numbers and types of FRA appliance; and
- Water – ensuring adequate supply of water for fire-fighting purposes.

The Welsh Government has produced guidance to inform FRAs of the requirements placed upon them - <https://gov.wales/development-procedure-consultees-wales-miscellaneous-amendments-order-2021-guidance-fire-and-rescue>. This includes advice regarding what can constitute a material planning consideration in respect of fire safety matters. LPAs are advised to work with FRAs should any substantive responses received during the initial settling in period deviate into non-planning matters. LPAs have the expertise to assess the advice presented to them in the consultation response, to determine what is and is not a material planning consideration, and the weight that should be attributed as part of the decision-making process.

### **Transitional arrangements**

Transitional arrangements for developers have been put in place to take account of the lead time required to prepare an application for the specified types of development. In addition, the differential phasing of the implementation has been designed to enable FRAs to adapt

to the requirements, and be familiar with in-process applications via pre-application consultation with developers prior to receiving requests for consultations from LPAs, which will form the majority of their consultation requests.

The transitional arrangements are summarised in annex 1 to this letter.

## Contact Details

The relevant service areas for each FRA is published on their websites:

- North Wales Fire and Rescue Service: <https://www.northwalesfire.gov.wales/about-us/our-service-areas/our-service-areas/>

Email: (Gwynedd and Ynys Môn): [gwynedd.mon@nwales-fireservice.org.uk](mailto:gwynedd.mon@nwales-fireservice.org.uk)  
(Conwy and Denbighshire): [conwy.denbighshire@nwales-fireservice.org.uk](mailto:conwy.denbighshire@nwales-fireservice.org.uk)  
(Wrexham and Flintshire): [flintshire.wrexham@nwales-fireservice.org.uk](mailto:flintshire.wrexham@nwales-fireservice.org.uk)

- Mid and West Wales Fire and Rescue Service: [https://www.mawwfire.gov.uk/media/4167/mawwfrs\\_a4bi.pdf](https://www.mawwfire.gov.uk/media/4167/mawwfrs_a4bi.pdf)

Email: [bregs@mawwfire.gov.uk](mailto:bregs@mawwfire.gov.uk)

- South Wales Fire and Rescue Service: <https://www.southwales-fire.gov.uk/who-we-are/south-wales-fire-rescue-authority/>

Email: [firesafety@southwales-fire.gov.uk](mailto:firesafety@southwales-fire.gov.uk)

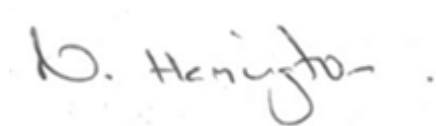
## Monitoring

The Welsh Government will monitor the operational performance of FRAs as a statutory consultee through the annual performance report they must submit annually to the Welsh Ministers by virtue of Article 15F of the DMPWO. A summary of their performance will be published in the All Wales Annual Performance Report.

Please contact [planning.directorate@gov.wales](mailto:planning.directorate@gov.wales) should you have any queries.

I encourage you to circulate this letter to any relevant third-party.

Yours sincerely



**Neil Hemington**  
**Prif Gynllunydd, Y Gyfarwyddiaeth Gynllunio**  
**Chief Planner, Planning Directorate**

## Annex 1

### Transitional arrangements for consultation with FRAs

| <b>Consultation with FRAs required for applications submitted (including notifications made to Welsh Ministers in the case of DNS):</b>                                 |  |   |   |
|---|--|---|---|
|   | <b>27 October 2021 –<br/>23 January 2022</b> | <b>24 January 2022 - 24<br/>April 2022</b>  | <b>25 April (onwards)</b>   |
| <b>Planning Applications determined by LPAs</b>   |  |   |   |
| Developers to undertake pre-application consultation with FRAs under Article 2D of the DMPWO  | <b>X</b>                                     | Developers to start pre application consultation with FRAs*   | <b>✓</b><br>Pre-application Consultation Report (PAC) must include consultation with FRA for validation of application by the LPA               |
| Consultation by LPAs at application stage under Article 14 of the DMPWO   | <b>X</b>                                     | <b>X</b>  | <b>✓</b>  |
| Statutory requirement for FRAs to provide a substantive response to any consultation received under articles 2E and 15E of DMPWO (and articles 10 and 23 of the DNSPWO) | <b>X</b>                                     | <b>✓</b>  | <b>✓</b>  |
| <b>DNS Applications</b>   |  |   |   |
| Consultation by developers (Article 9 of the DNSPWO) and the Welsh Ministers (Article 22 of the DNSPWO) for applications for DNS  | <b>X</b>                                     | <b>✓</b><br>(excluding applications submitted where notification to the Welsh Ministers was undertaken by the developer before 24 January 2022) | <b>✓</b><br>(excluding applications submitted where notification to the Welsh Ministers was undertaken by the developer before 24 January 2022) |

\* Whilst there is no statutory requirement for applications submitted prior to 25 April 2022 to include confirmation in the PAC of consultation with FRAs, developers nonetheless should begin undertaking consultations during this period as part of the statutory pre-application consultation process in preparation for the submission of planning application on or after 25 April.

- Between the laying of the legislation and 23 January 2022, neither developers nor LPAs will be under a statutory duty to consult FRAs. Whilst FRAs may choose to respond should any discretionary requests for consultation be received, the requirement to provide a substantive response does not apply.

- From 24 January 2022, FRAs will begin receiving requests for consultation responses from developers undertaking consulting pre-application consultation (for both future planning applications and DNS). Requests for a consultation response may also be received from the Welsh Ministers for DNS applications. FRAs will be required to provide a substantive response to any pre-application consultation request received.
- From 25 April 2022, the statutory requirement for both developers and LPAs to undertake consultations commences.