

## Consultation Response Form

### Realising the potential of pre-application discussions

We want your views on our draft practice guidance on pre-planning application discussions. We also want to hear about your experience of pre-planning application discussions.

***Please submit your comments by 28 September 2011.***

If you have any queries on this consultation, please email: [planconsultations-d@wales.gsi.gov.uk](mailto:planconsultations-d@wales.gsi.gov.uk) or telephone Matthew Griffiths on 029 2082 3078 or Jan Dominguez on 029 2082 5014.

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Realising the potential of pre-application discussions		
29 June 2011 - 28 September 2011		
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<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Q1	Do you agree that pre-application discussions can be beneficial for the clarity, certainty and transparency of the planning system and that the new draft guidance is useful? If not, what amendments would you suggest? (As set out in Section 2, paragraphs 2.1.1 – 2.1.5)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Comments:**  
**Yes to the first statement. The benefits of pre-applications discussions are generally well recognised by Local Planning Authorities (LPAs) and many already have protocols in place for undertaking pre-application discussions. Many developers already utilise such services before submitting planning applications formally.**

**Pre-application discussions are a key part of the shift towards Development Management rather than Development Control. This shift is fully endorsed by the RTPI.**

**Clarity is needed over the status of pre-application advice, in particular the disclaimer which is often attached by Local Authorities, i.e. that the advice is offered without prejudice to the formal consideration of an application. All parties need to be open and realistic about the process and their expectations and required outcomes of the process. The ability of the LPA to make firm commitments will always be limited by the statutory process to follow once an application is submitted.**

Paragraph 1.2.1 states that the guidance is intended to assist LPAs, and will be useful for others, and it is clear throughout that the guidance is primarily focussed on LPAs. This is a missed opportunity, the guidance scope should be widened to provide more advice to developers and 3<sup>rd</sup> parties about how they can get involved in pre-application discussions and what their role in the process should be.

Q2	Do you agree with the principles? If not, what amendments would you suggest? (See Section 2, paragraphs 3.1.1 – 3.3.1)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes, mainly agree with the principles.</p> <p>The idea of the LPA in 'brokering' discussions between developers and relevant stakeholders and local communities is interesting. The role of the LPA in coordinating discussions would appear to be established good practice and is supported by the RTPI. However, it is not the role of the LPA (particularly at pre-application stage) to 'broker' deals between conflicting parties.</p> <p>The importance of getting continuity between the people who give the advice and those who deal with the planning application, once submitted, is noted as important. However, this will not always be possible, therefore LPAs need to try to ensure consistency on the advice given between different officers and to ensure proper records are kept of all discussions, to enable someone else to take over if necessary. The guidance should recognise this.</p> <p>The aims at para 3.3.1 are directed specifically at LPAs but are equally relevant to developers and therefore should be expressed as such, to emphasise the partnership approach that should be embraced in pre-application discussions.</p>			

Q3	Do agree with the advice that local planning authorities should provide a statement of service and the recommended content? If not what amendments would you suggest? (See section 2, paragraphs 3.4.1 – 3.4.3)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes, agree.</p> <p>LPAs should be clear about their protocols for pre-application advice and make this publically available (e.g. on their web site). Consideration should be given to a range of approaches depending on the type of development proposed and the</p>			

**guidance could give some more ideas on this.**

The acknowledgement that it is legitimate for LPAs to charge for pre-application advice is welcomed and this should enable LPAs to properly resource their departments to provide effective pre-application advice. However, excessive charging, or a poor delivery of service, will act as a disincentive for applicants to engage in the pre-application process, and should be discouraged.

The guidance refers to the Freedom of Information Act 2000. It would be useful to give more detail on the implications of this legislation for pre-application discussions.

<b>Q4</b>	Do you agree with the approach taken to pre-application advice for small scale development? If not, what amendments would you suggest? (See section 2, paragraphs 3.5.1 – 3.5.3)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p><b>Yes, agree. Note that often such guidance does already exist in SPGs, design statements, or masterplans.</b></p> <p>It may be useful to recognise that pre-application advice for householder and minor developments is often sought by persons who have no previous experience of the planning system and therefore the advice needs to be tailored accordingly.</p> <p>The guidance could refer to services offered by Planning Aid Wales.</p>			

<b>Q5</b>	Do you agree with the approach to involving others in pre-application discussions? If not what amendments would you suggest? (See Section 2, paragraphs 3.6.1 – 3.6.3)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p><b>The principle of involving others in the process is generally welcomed. However, this has a number of potential problems which could include:</b></p> <ul style="list-style-type: none"> <li>- the confidentiality of pre-application submissions, i.e. would developers be happy for consultation with 3rd parties and local communities?</li> <li>- community engagement tends at pre-application tends to be more effective when it is coordinated and run by the developer and they can respond directly to concerns raised;</li> <li>- it places a significant resource burden on the LPA;</li> <li>- it relies on the ability of 3rd parties to respond in a timely manner, when in many cases they are already too stretched to respond to statutory planning application consultations;</li> <li>-it could significantly increase the time it takes to arrange a meeting and issue advice;</li> </ul>			

**It may be that this approach would be more appropriate to larger scale developments.**

**Competence and consistency are crucial elements that need to be assured on the part of the LPA and any other consultees.**

**Effective relations with building control would seem to merit greater consideration and profile in the document than it is currently given.**

**DCfW encourage and welcome pre app discussion and perhaps this should be noted, as well as how they deal with confidentiality issues.**

<b>Q6</b>	Do you agree on increasing the involvement of local authority members at the pre-application stage? If not why not? Do you have suggestions on how local authority members could be further involved at the pre-application stage? (See Section 2, paragraph 3.6.1)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>Comments:</b></p> <p><b>Involvement of Local Members may be helpful but could potentially prejudice their position in the future determination of the planning application at Committee, therefore careful protocols would need to be put in place. The guidance does not consider this in depth or recommend how this is approached by LPAs. Further guidance would be useful to clarify the role of members in pre-application discussions.</b></p> <p><b>The development industry may find it useful if pre-application advice included judgments about local political objectives and priorities which may need to be factored in to development proposals.</b></p> <p><b>Clarification is also needed over what constitutes a Member(e.g. local Ward Member, Committee Member, Cabinet Member). It may be appropriate for certain types of development or larger scale schemes.</b></p> <p><b>The need to ensure effective Member training would be critical prior to their active involvement in pre-application discussions.</b></p>			

<b>Q7</b>	Do you agree with the practice advice given on processes and tools for pre-application discussions? If not what amendments would you suggest? (See Section 2, paragraph 4.1.1 – 4.6.2)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><b>Comments:</b></p> <p><b>Yes, RTPI Cymru consider this a good approach and recognises current good practice already being used by many LPAs in Wales.</b></p> <p><b>Pre-application advice can also help reduce the submission of lengthy Design and</b></p>			

**Access Statements and other assessments by establishing what should/need not be covered.**

**The recording of pre-application discussions and advice may help to address inconsistency of advice from LPAs but there is a danger that the LPA's comments become either very vague or negative as a protection measure.**

**In Wales there is still not sufficient legislative support for LPAs seeking additional application information such as a Transport Assessment or Tree Survey. Therefore, the statement "Using pre-application discussions to agree validation requirements can help address the current delays that occur due to invalid planning applications." is only really true if this is supported with additional powers for LPAs to insist on the necessary information. At present LPAs cannot refuse to validate an application missing vital background information such as this. Further legislation in this regard is urgently required to prevent lengthy delays in determining planning applications.**

<b>Q8</b>	Do you agree with the contents of the two checklists? If not what amendments would you suggest? Do you have any other suggestions for steps developers and local planning authorities can take to improve pre-application discussions? (See Section 2, paragraph 5.1.1)	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Comments:**  
**We consider that the checklists to be comprehensive.**

**The developer checklist should encourage the developer to take on board the advice offered by the LPA in pre-applications before submitting formal applications, otherwise the process is a waste of time. This could potentially speed up the application process.**

**The local authority list is very resource heavy and could result in a lot of officers' time being taken up by this process which would take them away from time spent on determining applications. There is no guarantee that a pre-application discussion would result in an actual planning application.**

**It may be useful to include a checklist for 3rd parties and their roles and responsibilities in pre-application discussions.**

<b>Q9</b>	Please provide details of case studies that illustrate current pre-application discussion practice.	Yes	No
		<input type="checkbox"/>	<input type="checkbox"/>

**Comments:**

Q10	We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them: (on the consultation response form at Annex 1).	Yes	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The publication of guidance is welcome as recognising the emerging patchwork of approaches across Wales - free or charged, senior level or junior advice, etc.</p> <p>Further advice could be given on any charges associated with this service to ensure transparency and consistency across Wales. The guidance should guard against any potential to use charging for pre -pplication advice as a deterrent. Charges should be scaled appropriately to scale of application and the procedure should clarify if it would apply to all types of application, such as householder, LBCs or advert applications. If developers are to pay, they need to get value for money in terms of quality of response.</p> <p>The document could suggest categories of applicants for whom pre-application advice should remain as a 'free' service (or resourced from general funds), for example, charitable trusts, Registered Social Landlords, etc.</p> <p>There is a need for greater consistency between LPAs across Wales in terms of the pre-application service they offer, whether it is charged, and what form it takes. It is hoped that this guidance will improve consistency.</p> <p>Regard needs to be had to what the Ombudsman has already noted previously i.e. that LPA involvement needs to be correct and complete (nothing missing), provided at a senior level and clear that advice is only informal.</p> <p>The guidance should recognise that pre-application discussions could reduce the need for planning conditions at the end of the process (i.e. where issues have been identified and dealt with early on, which may otherwise have been left to deal with by condition).</p> <p>The guidance refers to 'developers', but more might be done to recognise the significant variation in capability and experience of different forms of developers - this could then highlight that some 'developers' would require significant additional support and a bespoke approach to even get the best out of pre-application services (or even to know that it was something that they would benefit from and should take up, especially if there is a fee attached).</p> <p>The guidance often seeks to speak to all forms of development - it may be worth considering a clearer distinction between householder/minor/major forms of development and the forms of pre-application advice that suited to them.</p> <p>LPAs might be more strongly encouraged to provide limited, but easily accessible forms of less formal advice where it is appropriate to do so.</p> <p>There is a need for one to one discussion either in person or by phone to ensure</p>			

**that comments are not misinterpreted and that further questions triggered by any discussion are addressed.**

**The guidance should emphasise the importance of taking account of emerging planning policy which may affect the life-cycle of the advice given, where the LPA are aware of potential changes ahead.**

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

## **How to Respond**

**Please submit your comments by 28 September 2011, in any of the following ways:**

<b>E-mail</b>
Please complete the consultation form and send it to : <a href="mailto:planconsultations-d@wales.gsi.gov.uk">planconsultations-d@wales.gsi.gov.uk</a> [Please include 'Realising the potential of pre-application discussions - WG12667' in the subject line]
<b>Post</b>
Please complete the consultation form and send it to: <b>Realising the potential of pre-application discussions Planning Improvement Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3 NQ</b>
<b>Additional information</b>
If you have any queries on this consultation, please Email: <a href="mailto:planconsultations-d@wales.gsi.gov.uk">planconsultations-d@wales.gsi.gov.uk</a>  Telephone: Matthew Griffiths on 029 2082 3078 or Jan Dominguez on 029 2082 5014