

Secondary legislation for development management consultation  
Development Management Branch  
Planning Directorate  
Welsh Government  
Cathays Park  
Cardiff CF10 3NQ

09 September 2015

Dear Mr Morgan,

### **Consultation on secondary legislation for development management<sup>1</sup>**

Thank you for the opportunity to comment on this consultation paper.

#### **The Chartered Institute for Archaeologists**

The Chartered Institute for Archaeologists (CIfA) is the leading professional body representing archaeologists working in the UK and overseas. We promote high professional standards and strong ethics in archaeological practice, to maximise the benefits that archaeologists bring to society, and provide a self-regulatory quality assurance framework for the sector and those it serves.

CIfA has over 3,250 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management, planning advice, excavation, finds and environmental study, buildings recording, underwater and aerial archaeology, museums, conservation, survey, research and development, teaching and liaison with the community, industry and the commercial and financial sectors.

CIfA's Wales / Cymru Group has over 300 members practising in the public, private and voluntary sector in Wales.

#### **Secondary legislation for development management**

## **General**

ClfA supports Welsh Government in its aim to produce a streamlined and fit-for-purpose planning system for Wales, but is concerned to see that levels of protection for the historic environment are not inadvertently reduced in the process.

## **Specific Questions**

**Question 1: Do you agree that a notice that an application is not valid should include criteria a) to f)?**

1.1 Yes.

1.2 ClfA's primary concern is not with the mechanism, but with its operation. If there is no archaeological input to the validation process, applications may be validated which are deficient in requisite archaeological information (for instance, required by local validation requirements). Such information will not be required in every case, but archaeological expertise may be required to appreciate precisely when such information is necessary.

**Question 2: Is there any additional information you think should accompany a notice of non-validation? If so, why is this information necessary?**

2.1 No.

**Question 3: Do you agree that a period of 14 days for the applicant to submit their appeal is sufficient time given the desired quick turn around of appeals against notice of non-validation?**

3.1 Yes.

**Question 4: Do you agree that the Welsh Ministers should be required to determine appeals within 21 days of the start of the appeal period?**

4.1 Yes, subject to the concern expressed in paragraph 1.2 above.

**Question 5: Where an application is considered to be invalid and an appeal submitted in respect of a notice of non-validation, do you agree that the fee should be retained by the LPA pending the outcome of that appeal?**

5.1 Yes

**Question 6: Do you agree that when a decision notice is revised it should include**

**a) the date of the approval; and**

**b) the relevant application reference in the updated version of the notice?**

6.1 Yes.

**Question 7: Do you agree that the DMPO should be updated to require LPAs to keep a copy of the most recent decision notice on the planning register?**

7.1 Yes.

**Question 8: Are there any other requirements which you think should be made of the developer in respect of the form, content or display of a notification of development?**

8.1 No comment.

**Question 9: Do you agree that LPAs shall not determine an application subject to consultation until any of the following periods have elapsed:**

**a) a period of 21 days; or**

**b) until all statutory consultees have provided a substantive response, whichever is the sooner, or**

**c) subject a longer period if agreed in writing between the LPA and consultee?**

9.1 Yes, provided that LPAs will generally agree to extensions when consultees request them, in particular where the nature of the issues involved requires further time to address.

**Question 10: Do you agree that earliest time that Welsh Ministers can determine an application made under s.293A of the Town and Country Planning Act 1990 (TCPA) should remain as 14 days after giving statutory consultees notice of the application, as stated in Article 15 of the DMPO?**

10.1 Yes. A longer timescale would be desirable, but the urgent nature of the application suggests that this would not be practicable.

**Question 11: Do you agree that appeals determined by Welsh Ministers under s.217 of the TCPA should follow the same format as existing enforcement appeals?**

11.1 Yes.

**Question 12: Do you agree that a four week period for LPAs to write their appeal statement is reasonable? If you consider an alternative period is more appropriate for s.217 appeals, please state why.**

12.1 Yes, provided that there is discretion to extend that period if justified on the facts of any given case.

**Question 13: Do you agree that where an amendment is submitted in relation to major development applications, LPAs should be given an additional four weeks to determine the planning application?**

13.1 Yes.

**Question 14: i) Do you think a fee should be charged for minor material amendments to major applications which have yet to be determined?**

14.1 Yes.

**ii) If yes, do you agree that £190 is an appropriate fee to charge in light of the recent consultation on planning application fees?**

14.2 No comment.

**Question 15: Renewals**

**i). Should the validation requirements for a renewal application be the same as the original application?**

15.1 ClfA would only agree to the relaxation of validation requirements for renewal or other applications under section 73 if consultation requirements ensured that any further impacts upon the historic environment will be adequately addressed.

**ii). Should the LPA have discretion over the consultation requirements for a renewal application?**

15.2 Yes, save that when an archaeological assessment has originally been submitted, the LPA should consult the appropriate archaeological advisor for the area (normally one of the Welsh Archaeological Trusts) in order to ascertain whether an updated assessment is required.

**iii). Should the LPA have discretion over the notification requirements for a renewal application?**

15.3 No. Notification requirements provide a 'backstop' to ensure that relevant issues are brought to the LPA's attention.

**Question 16: Minor material amendments**

**i) Should the validation requirements for a minor material amendment application be the same as the original application?**

16.1 See paragraph 15.1 above.

**ii) Should the LPA have discretion over the consultation requirements for a minor material amendment application?**

16.2 Yes, save that, if there is any prospect of the proposed amendment impacting upon the historic environment, the LPA should consult the appropriate archaeological advisor for the area (normally one of the

Welsh Archaeological Trusts) in order to advise upon that impact and its acceptability.

**iii) Should the LPA have discretion over the notification requirements for a minor material amendment application?**

16.3 See paragraph 15.3 above.

**Question 17: Variation or removal of a condition attached to a planning permission that does not fall within the above categories (renewal and minor-material)**

**i) Should the validation requirements for these applications be the same as the original application?**

17.1 If and insofar as such variation or removal related to archaeological conditions and/or impacted upon the historic environment, ClfA would only agree to the relaxation of validation requirements unrelated to the historic environment.

**ii) Should the LPA have discretion over the consultation requirements for these applications?**

17.2 Yes, save that, if and insofar as such variation or removal related to archaeological conditions and/or impacted upon the historic environment, the LPA should consult the appropriate archaeological advisor for the area (normally one of the Welsh Archaeological Trusts) in order to advise upon the implications for the historic environment.

**iii) Should the LPA have discretion over the notification requirements for these applications?**

17.3 See paragraph 15.3 above.

**Question 18: Should the fee to accompany an application that falls within s.73 submitted after refusal of an application under section 96A of the TCPA only be that required to make up the difference in fee cost?**

18.1 No comment.

**Question 19: Do you agree that extensions of time should be permitted, subject to both the LPA and applicant agreeing in writing?**

19.1 Yes.

**Question 20: Do you agree with the level of proposed fees set out in Table 1? If not, what should the fee be?**

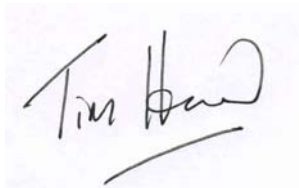
20.1 No comment, save that, if pre-application advice is to encompass advice on the historic environment, the fees should, amongst other things, reflect the cost of such expert advice.

**Question 21: Do you have any other comments to make regarding the statutory pre-application service?**

21.1 The early consideration in the planning process of issues affecting the historic environment is key not only to the effective management and protection of historic assets but also to facilitating the timely delivery of sustainable development. ClfA continues to support the provision of a statutory pre-application service.

If there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Tim Howard', with a horizontal line underneath.

Tim Howard LLB, Dip Prof Arch  
Senior Policy Advisor

---

<sup>1</sup> <http://gov.wales/docs/desh/consultation/150619consultation-document-en.pdf>