



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Developments of National Significance

Procedural Guidance



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1. Introduction

Overview of the DNS process

- 1.1. The statutory basis for the Development of National Significance (“DNS”) process is provided by the Planning (Wales) Act 2015, which amends the Town and County Planning Act 1990 (“the Act”), and the Developments of National Significance (Wales) Regulations 2016 (as amended) and subsequent Regulations.
- 1.2. The purpose of the DNS process is to ensure timely decisions are made on those planning applications that are of the greatest significance to Wales, because of their potential benefits and impacts.
- 1.3. Applications are submitted to the Planning Inspectorate Wales (“the Inspectorate”) for consideration by an appointed Inspector. The appointed Inspector will then consider evidence from the applicant, the Local Planning Authority (LPA) and other statutory consultees and interested parties.
- 1.4. Following consideration of the evidence, the Inspector will write a report to the Welsh Ministers, setting out their conclusions and making a recommendation as to whether or not the application should be granted planning permission.
- 1.5. The diagram on the following page gives a basic overview of the DNS application process.

Community involvement

- 1.6. We recognise that local people may not have cause to be involved very often with planning applications. For that reason, we have also produced an accessible guide to the DNS process that focusses on how and when people can get involved.

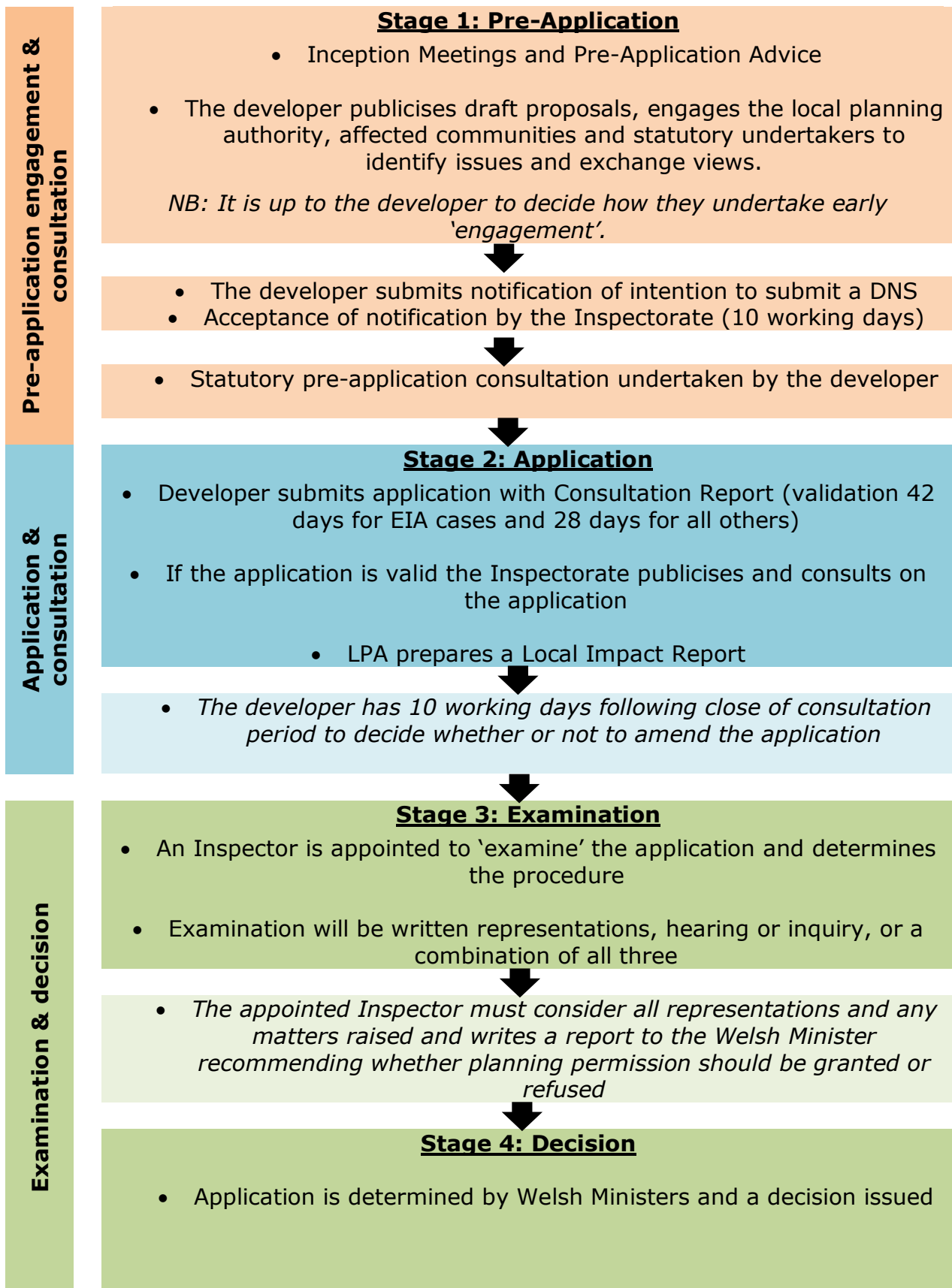
Contacting us

- 1.7. To discuss a particular application or to request information about the DNS process, you can contact us using the details below.

The Planning Inspectorate Wales
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

General Enquiry Line: 0303 444 5940
Email: dns.wales@planninginspectorate.gov.uk

Stages of a DNS Application



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What constitutes a DNS?

- 1.8 For a project to qualify as a DNS, certain thresholds and criteria apply.
- 1.9 Precise details of the criteria related to various projects can be found in the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (as amended).
- 1.10 As of 1 April 2019, the DNS thresholds related to generating stations have been extended; as a result, all energy generation projects of between 10MW and 350MW are now captured by the DNS system.
- 1.11 As are overhead electric lines of up to 132kV which are associated with a devolved generation station.
- 1.12 Energy storage projects are no longer captured by the DNS system. Effectively, all energy storage projects, up to 350MW can now be decided by LPAs. However, this does not include pumped hydroelectric storage schemes of between 10MW and 350MW which are still captured by the DNS system.

Requirements for some DNS projects to be Carbon Capture Ready

- 1.13 Applications for combustion plants with a capacity at or over 300MW must be supported by assessments relating to the capturing, transporting and storage of CO₂. This is in accordance with the EU Directive on the Geological Storage of Carbon Dioxide.
- 1.14 Depending on the outcome of those assessments, it may be a requirement for the project to accommodate carbon capture equipment, making the proposed plant “carbon capture ready” (CCR).
- 1.15 The Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013 (as amended) provide the necessary details. Guidance has been previously produced by the UK Government, which sets out the necessary processes and requirements, and is available here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/43609/Carbon_capture_readiness_-_guidance.pdf

2. The Pre-Application Stage

Early Engagement

- 2.1. It is strongly encouraged that applicants enter into a general dialogue with the Inspectorate about their application and the DNS process in the early stages of project design. These Inception meetings have proven to be of benefit to applicants and improved understanding of the DNS process.
- 2.2. Prior to submission, early engagement with communities, LPAs, statutory consultees and other interested parties provides an opportunity to overcome any potential issues with the proposal. The ability to amend a scheme following submission of a DNS application is very limited. Consequently, it is important that applicants seek to resolve any issues prior to submission and early engagement with these bodies is strongly encouraged by the Inspectorate.
- 2.3. At an early stage, applicants should consider whether related licences or consents are required from other bodies, such as Natural Resources Wales (NRW). Applicants should aim to 'twin-track' related consents with their DNS application to avoid delays later on in the process. Processing DNS applications would not be delayed by this, but the scheme may be delayed if there is a need to wait for other consents to be approved.
- 2.4. Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) processes should also be iterative and considered early on in the development of a DNS project.

Notification

- 2.5. Notification is the first formal stage of the DNS process.
- 2.6. This is notification of intent to submit a DNS application. It must be made prior to submission of the full application and before the applicant undertakes the statutory publicity and consultation.
- 2.7. The Inspectorate has 10 working days to determine whether or not the project qualifies as a DNS. If the notification is accepted, the applicant will then have twelve months to submit a full DNS application.
- 2.8. The fee for submitting a notification is £580.

Pre-application Publicity and Consultation

- 2.9. Following the notification stage, prior to submitting a full DNS application, the proposed application must be publicised and consulted on for a period of at least six weeks.

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2.10. As a minimum, the applicant must¹:

- Consult specific community consultees, specialist consultees and any relevant persons (see table below),
- Serve written notice on owners or occupiers of land adjoining the site,
- Display site notices, eligible for the DNS process, in at least one place on or near the site, and
- Place a notice in a local newspaper.

Category	Persons/organisations required to be consulted
Community Consultees	<ul style="list-style-type: none"> • Each Councillor representing each electoral ward in the County or County Borough Council in which the site is situated. • The Community Council(s) in which the site is situated.
Specialist Consultees	<p>Depending on the type and nature of the development the following bodies may need to be consulted:</p> <ul style="list-style-type: none"> • The Welsh Ministers • NRW • The Local Highways Authority • The railway network operator • The Coal Authority • The Health and Safety Executive² • The Office for Nuclear Regulation • The Control of Major Accident Hazards (COMAH) competent authority, and any person in control of land associated with a hazardous installation • The Theatres Trust • The Sports Council for Wales • The Canal and Rivers Trust
Relevant Persons	<p>If the DNS application includes one or more secondary consents, the applicant must consult the authority which would normally determine the application. This may include:</p> <ul style="list-style-type: none"> • The Welsh Ministers • LPA • The Local Highways Authority • The Hazardous Substances Authority

¹ The Developments of National Significance (Procedure) (Wales) Order 2016 (as amended); Articles 7, 8 & 9

² DNS contact details for HSE available here: <http://www.hse.gov.uk/landuseplanning/contact.htm>

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- 2.11. Following the end of the consultation period, a Consultation Report must be prepared by the applicant. This must be submitted with the application and should provide details of the consultation process, the representations received and the applicants response to them.

Pre-Application Advice

- 2.12. There is a formal process if applicants wish to obtain pre-application advice from the Inspectorate, which extends to 'without prejudice' advice on the merits of proposed schemes as well as the procedural aspects of the DNS process.
- 2.13. There is a separate process for obtaining pre-application advice from the relevant LPA.
- 2.14. Pre-application advice is a chargeable service, details of which can be found in the Fees and Finance section of this guidance.

When and how is pre-application advice available?

- 2.15. Formal pre-application advice is available at any stage up to the submission of a DNS application. Requests for pre-application advice will need to be made in a standard format on the form available from the [Welsh Government website](#).
- 2.16. In addition, Inception meetings are offered by the Inspectorate, allowing applicants the opportunity to discuss the pre-application process and establish any requirements for formal advice.
- 2.17. Applicants are also encouraged to consider engaging with relevant statutory consultees at this stage.

What pre-application advice is available?

- 2.18. As a minimum, where requested by the applicant, the following will be provided:
- Information and assistance on the form and content of the application; the form and content of any technical reports which may be required; the procedures for making and progressing an application; and
 - Such other information or assistance as requested by the applicant.
- 2.19. Where specifically requested, the Inspectorate may also provide applicants with procedural advice.
- 2.20. All pre-application advice will be given solely on the basis of the information provided at the time. In some cases, the advice that the Inspectorate can offer will be limited by the availability of resources.

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Who will provide pre-application advice?

- 2.21. In most cases, pre-application advice will be provided by Planning Officers from the Inspectorate. Where certain specialist or technical knowledge is required, an Inspector may also be allocated to provide additional advice.
- 2.22. Where an Inspector has provided pre-application advice the same Inspector to examine the application. However, all pre application advice is given without prejudice.
- 2.23. The Inspectorate will not normally consult the LPA, highways authority or other statutory bodies when preparing pre-application advice. As noted above, there is a separate process for obtaining pre-application advice directly from LPAs.

Timescales for providing pre-application advice

- 2.24. Requests for pre-application advice should be dealt with within 28 days of the date of the request, or such longer period as the Inspectorate may determine.

Publication of pre-application advice

- 2.25. At pre-application stage, where sensitive commercial or other information is included, the agreement of the applicant will be sought with regard to when the advice is published. However, once the application has been submitted, or when the 12 months period after notification has passed and no application has been submitted, the Inspectorate will publish the advice.
- 2.26. Applicants should note the obligations of the Inspectorate under the Freedom of Information Act and/or the Environmental Information Regulations.

Statements of Common Ground

- 2.27. There is no statutory requirement for the production of Statements of Common Ground (SoCGs) in the DNS process, but they can be extremely useful tools and will contribute to an efficient examination process.
- 2.28. Where elements of a DNS application are to be the subject of a Hearing or Inquiry SoCGs will also be very useful in focussing on any matters in dispute between the parties.
- 2.29. A statement of common ground should:
 - be a single document, compiled and signed off by both parties;
 - be concise and avoid duplication of information already submitted by the parties;
 - include a list of agreed and/or shared core documents, even if there is disagreement about their interpretation and relevance. There is no need to include extracts from Planning Policy Wales or TANs, references will suffice;
 - identify areas of common ground, as well as the main points of disagreement between the parties;

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- identify agreed elements of the evidence and any technical studies that have been undertaken, including agreed findings, even if there is disagreement about their interpretation and relevance;
- identify whether there are any conditions or planning obligations which would satisfactorily address any disagreement or objection.

3.Submission

- 3.1. Following the notification and pre-application stages, the next stage of a DNS application is submission.
- 3.2. Any application must be submitted within 12 months of notification (previous stage).
- 3.3. The DNS application, once submitted, cannot undergo any significant changes, and so the application submitted must be the final proposal.

Application Acceptance Checklist

- 3.4. To help determine whether applications are of a satisfactory standard to be validated, the table below identifies the minimum general requirements that a DNS application must consist of.

Documents to be Submitted with a DNS Application

All DNS Applications must include:

- Completed application form
- Copy of the notice of acceptance (the notification)
- Site location plan
- All other applicable plans
- Copy of land ownership certificates
- A Design and Access Statement
- A Pre-Application Consultation Report

If the development requires EIA:

- An Environmental Statement (ES) must also be submitted.

If the development does not require EIA:

- negative screening direction must also be submitted.

If the development involves Crown Land:

- a statement with authorisation must also be submitted.

If the application involves Secondary Consents:

- a written statement outlining any secondary consents must accompany an application.

- 3.5. Compliance with this checklist will not guarantee acceptance of the application.

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- 3.6. Associated with the submission of a DNS application is an 'initial fee', further details of which can be found in the Fees and Finance section.
- 3.7. The table below sets out the actions to be taken by the applicant prior to submission of an application.

Actions to be taken by the Applicant prior to submission

- Consultation with relevant consultees
- Written notification to owners/occupiers of land adjacent to site
- Notice published in local newspaper
- Site notice displayed on or near site (minimum 42 days)
- Application/supporting documents published on website (minimum 42 days)
- Payment of required fee
- Copy of application to LPA
- *If application consists of secondary consents: consultation with relevant body*

How should application documents be prepared?

- 3.8. In preparing application documents, the advice set out below should be followed:
- Each application document must be paginated, and paragraphs must be numbered. Paragraphs within appendices should also be numbered.
 - Written documents should, as far as possible, be printed on both sides of each page.
 - Documents submitted by e-mail should have a maximum file size of 15MB each and should be in PDF format.
 - Each document should contain a table of contents setting out chapter or topic headings, unless it comprises a short statement of no more than two A4 pages.
 - Where the document comprises a plan or plans, these must be clearly labelled.
 - A list of revisions should be produced so at any stage it is easy to identify the latest version of the plan or document.
 - A glossary should be included for each written document. Larger documents should include a clearly referenced bibliography as well.
 - The main body of text in reports should have a minimum font size of 11pt, and a recognisable and clear font should be used, such as Arial or Verdana.

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- Any references made to relevant documents should be made to the specific passage, policy or relevant part of the document.
- In all but exceptional cases, video or audio information should not be submitted. Applicants are strongly recommended to consult with the Inspectorate before the submission of such information.
- Any photographs should be correctly labelled, annotated and dated. The location at which photographs have been taken should be identified on a map. Specifications of the camera and type of lens used must also be provided.

Appendices

- 3.9. Appendices should be referenced and indexed and may be separately bound where appropriate.
- 3.10. It is important that the relevance of appendices is clearly explained in the document to which they relate.

How should application documents be organised?

- 3.11. It is important to ensure that large volumes of information are easily navigated. Duplication and superfluous content should be avoided.
- 3.12. It is recommended that a structured electronic application index is supplied, identifying all documents submitted with the application, and provides a plain English description of the information comprised within each document.
- 3.13. To assist with validation, the hard copies of an application should be organised in the same order as the electronic version.
- 3.14. Each document submitted that exceeds 1,500 words should include a summary of the key issues contained within it. The summary should be no longer than 1,500 words, or 10% of the original document size, whichever is the shorter.
- 3.15. File referencing for each plan or document submitted with the application should include: the scheme name; a document or plan title; a unique plan or document reference number; the appropriate Regulation paragraph number to which the document relates; the date of production of the plan or document; the author(s); and a chronological note of any revisions made to the plan or document including the revised plan or document number.
- 3.16. Applications that are poorly organised and presented could be at greater risk of not being validated.

How should the application be submitted?

- 3.17. Applicants may submit a DNS application electronically via the [DNS Wales website](#). The applicant should contact the Inspectorate to discuss the electronic submission of large documents.

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- 3.18. Where an application is made electronically, on the same day the applicant must provide a hard copy to the Inspectorate and the LPA.
- 3.19. The paper copies of applications should be submitted within the working hours of 9am-5pm, Mondays to Fridays (excluding UK public holidays). Applications received after 5pm will be treated as if they were received on the following day.
- 3.20. Each paper copy of the application should be provided as an individual package.
- 3.21. Hard copies of applications should be submitted to:

Major Casework Team
The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

What happens after the application is submitted?

- 3.22. The Inspectorate has a period of 28 days (42 days where the development requires EIA) to decide whether the application is valid.
- 3.23. The applicant will be notified of the decision including the reasons why it has not been validated should that be the case.

Publication of Submission Documents

- 3.24. The Inspectorate will publish application documents as soon as practicable.
- 3.25. Whilst most of the application documents will be published on [the DNS website](#), there are some circumstances where it will be appropriate for information to be kept confidential.
- 3.26. Where documents are intended to remain confidential, the applicant should provide these as separate documents with their confidential nature clearly indicated in the title, and watermarked as such on each page.
- 3.27. Confidential information should not be incorporated within other documents that are intended for publication or which the Inspectorate would be required to disclose under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017. This could include, for example, information regarding the location of badger setts.

Data Protection and Privacy

- 3.28. Applicants should avoid the inclusion of any personal data relating to individuals in the documents they submit; in particular the consultation report.
- 3.29. The Inspectorate must ensure that it complies with the General Data Protection Regulation (GDPR) 2018 when handling personal information and must redact personal details prior to publication.

4. Consultation and Publicity

- 4.1 Following formal confirmation of a valid DNS application, the five week representation period starts. During this period, relevant consultation and publicity will be carried out by the Inspectorate.
- 4.2 This stage gives specialist consultees and Community Councils an opportunity to provide final representations on the DNS application.

How will the consultation and publicity period be carried out?

- 4.3 The consultation of certain specialist consultees and Community Councils will be done by email, with links provided to electronic versions of the application documents.
- 4.4 Consultees must make a 'substantive response' or confirm that comments will not be made. Deadlines can be extended if the statutory consultee and the applicant both agree, and it does not negatively impact on the examination timetable.
- 4.5 There is no requirement for the Inspectorate to contact anyone who has expressed an interest in being consulted and/or who previously made comments on the draft DNS project at the pre-application stage.
- 4.6 The table below summarises the publicity requirements and the responsible bodies.

Responsible authority	Publicity or consultation requirement
The Inspectorate	Letters to statutory consultees
	Publishing material on DNS website
	Informing LPA(s) of the requirement to submit an LIR
	Press notice in local newspaper
The Inspectorate, with input from the LPA	Neighbour notification letters
	Notification to Community Councils
	Letters to interested parties and organisations
LPA	Erection of site notices (copies to be supplied by the Inspectorate)
	Placing a copy of the application on the local planning register

- 4.7 Prior to the consultation period, the Inspectorate will contact the LPA to identify the actions the Authority is required to take. Usually this will involve sending an example site notice and requesting information about relevant Community Councils and relevant local societies.

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Representations

- 4.8 Anyone may make a representation. Provided it has been received within the identified period, it will be recorded and published by the Inspectorate.
- 4.9 When publishing representations any sensitive personal data will be redacted in line with General Data Protection Regulations 2018 and the Data Protection Act 1998.
- 4.10 Representors' names and addresses will not be redacted, unless they have specifically requested that those details are withheld. In all cases, it is normal practice for representors' details to be held on internal records.

Local Impact Reports

- 4.11 The relevant LPA(s) for the area in which the DNS application is located are required to produce a Local Impact Report (LIR) (more guidance on this is provided in Appendix 5).

Varying the DNS Application

- 4.12 Following the closure of the five week representation period, the applicant has 10 working days to consider whether they wish to 'vary' the DNS application.
- 4.13 If the applicant wishes to vary the scheme, they must complete the 'Notification of intention to vary' form and forward it to the Inspectorate.
- 4.14 If the Inspectorate agrees to the variation, any revised application documents must be submitted within 28 days. During this time, the Inspectorate will suspend the DNS examination.
- 4.15 If the variation is not accepted, the scheme as originally submitted will continue to be examined.
- 4.16 The Inspectorate cannot examine an amended scheme if the proposed variation is substantial; only minor changes will be accepted.

5. Examination

- 5.1 Following acceptance of a valid DNS submission, an Inspector will be appointed to examine the application. Depending on the type and scale of project, the Inspector may be assisted by a Planning Officer, an Assistant Inspector or an Assessor.

How long will the examination take?

- 5.2 The determination period for the Welsh Ministers to make a decision on a DNS application is 36 weeks from the date of acceptance of the valid application.
- 5.3 In order to meet this timescale, the Inspectorate must deliver its report to the Welsh Ministers within 24 weeks. This allows a 17 week period for the DNS examination.
- 5.4 If the examination requires a Hearing, this must be held within 10 weeks of the end of the representation period (by week 15). If an Inquiry is necessary, this must be held within 13 weeks of the end of the representation period (by week 18).
- 5.5 In exceptional circumstances the Welsh Ministers can extend these timescales.
- 5.6 If the DNS application involves overhead electric lines, the timescale for examination will be reduced to 24 weeks, if determined by The Inspector alone. The Welsh Ministers could also decide on such applications, and if this is the case, the statutory 36-week determination period would apply.

What is the procedure for the examination?

- 5.7 The Inspectorate will confirm the procedure in writing no later than 7 weeks from the date of validation.
- 5.8 The examination could proceed by written representations, a Hearing or Inquiry, or a combination of all three.

Hearings and Inquiries

- 5.9 A Hearing or Inquiry session will focus only on the matters raised by the Inspector, with all other matters being addressed through written representations.
- 5.10 A Hearing provides an informal setting for addressing the issues identified by the Inspector. Those attending may bring professional advisors with them, however there will be no formal presentation of evidence, cross-examination or formal submissions.
- 5.11 An Inquiry is only likely to be arranged where there are complex issues or technical evidence. Witnesses will present evidence, be cross examined and re-examined where necessary.

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- 5.12 Only those people the Inspector considers will assist them on certain matters will be invited to participate in a Hearing or Inquiry. All those invited to attend will be notified directly.
- 5.13 Those invited to participate at a Hearing or Inquiry may submit a further representation in response to the matters raised by the Inspector, which should be no longer than 3,000 words.
- 5.14 Any statements that are excessively long or contain irrelevant or repetitious material may be returned. Any technical evidence should be limited to appendices, and should be clearly related to the case.
- 5.15 Participants should adhere to the timetable set by the Inspector for submitting written statements. Late submissions and additional papers are unlikely to be accepted on the day and may lead to an event being adjourned.
- 5.16 The times and venues for all Hearings and Inquiries will be publicised and are open to all to observe. Those not invited to participate may speak at the discretion of the Inspector, but this will be limited to matters explored at the Hearing or Inquiry.

Will the Inspector visit the site?

- 5.17 The Inspector will always visit the site. Where everything can be seen from a public place the Inspector will be unaccompanied. If this is not possible, arrangements will be made for the Inspector to be given access.
- 5.18 There will be no discussion of the merits of the application at any site visit.
- 5.19 Should anyone think that the visit should not be accompanied or wishes the Inspector to view the site from their property they should present their reasons to the Case Officer.

Can the examination be suspended?

- 5.20 In certain circumstances the examination may be suspended by the Inspectorate. The end date of the suspension period can be extended.
- 5.21 The Inspectorate may issue more than one suspension notice where multiple delays are caused to a DNS application.
- 5.22 Examples of the circumstances under which a suspension may be considered are summarised below.
- *Where legal undertakings between local planning authorities, third parties and the applicants require resolution*
 - *Where there is a significant change or review of policy*
 - *Where an applicant requests to make an amendment to a scheme*
 - *Where supporting documents are found to be deficient*

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- *Where essential parties fail to attend a Hearing or Inquiry*
- *Where a new secondary consent is 'called in' by the Welsh Ministers*

Openness and transparency during the examination

5.23 All application documents, representations and other submissions will be published along with any requests for further information and any matters to be discussed at a Hearing or Inquiry.

6. The Decision

- 6.1 At the end of the examination stage, the Inspector will report to the Welsh Ministers with their conclusions and recommendations. The Welsh Ministers will then issue a decision letter containing their decision on the DNS application and any associated secondary consents.
- 6.2 In the report, the Inspector will take account of:
- the evidence and documentation accompanying the application;
 - where received within the relevant time limits; the LIR, all representations, submissions and discussions at any Hearing or Inquiry;
 - any relevant legislation and policies, including changes to legislation, new Welsh Government policy and any new or emerging development plan policies; and
 - any other matters that are material to the application.
- 6.3 The report will not be published at this time. Publication of the report will take place once Welsh Ministers have placed that information in the public domain. The Welsh Ministers' decision will be set out in the decision letter.
- 6.4 Reports will be translated into Welsh prior to being issued.
- 6.5 Where the Inspector is the final decision maker (on applications for 132kV overhead electric lines) the Inspectorate will issue the final decision letter and the decision will be made public.

Can a decision be challenged?

- 6.6 There is no right of appeal against the Minister's decision.
- 6.7 Applications to challenge a decision in the High Court must be received by the Administrative Court within 42 days from the date of the decision.

Who makes sure that the development is carried out in accordance with planning permission granted?

- 6.8 The LPA has the sole responsibility for monitoring the implementation of the permission and ensuring that it is in accordance with the plans and any conditions.
- 6.9 If the LPA considers that the development does not comply with the permission, it has the power to take enforcement action.

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Feedback and complaints

- 6.10 Feedback, both positive and negative, about any experiences of the DNS process is welcomed. Further information can be found at:
<https://gov.wales/topics/planning/appeals/feedback-and-complaints/?lang=en>
- 6.11 Complaints against an Inspector or the way in which a case was administered will be investigated in accordance with our published policy on complaints and challenges.

7. Fees and Finance

- 7.1 The DNS regime is operated on a full 'cost recovery' basis, and so various stages of the process are associated with the payment of fees. The Developments of National Significance (Fees) (Wales) Regulations 2016 (as amended) sets out the full details.
- 7.2 Applicants should be aware of the costs up front, and any delay in paying the relevant fee could result in a delay to the application process.
- 7.3 The table below outlines the baseline costs associated with a DNS application.

Discretionary Costs	
Pre-Application Services - LPA	£1,500
Pre-Application Services – the Inspectorate	Hourly rate of £55 (plus VAT)
Essential Costs	
Notification Fee	£580
Initial Fee (paid on submission)	£15,350
Fee for LIR (paid on submission)	£7,750 (per relevant LPA)
Fees for Examining the Application	
Written Representation	Daily rate of £870
Hearing or Inquiry	Daily rate of £920
Determination fee (applicable to all DNS projects, except applications for overhead electric lines)	£14,700 (paid directly to Welsh Government)

- 7.4 Additional costs can be accrued throughout the examination of a DNS application, and so the above table is only a guide.
- 7.5 The determination fee is paid directly to Welsh Ministers. Any queries about this element of the fee structure should be directed to the Planning Directorate of Welsh Government. They can be contacted via:

planning.directorate@gov.wales

Planning Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

0300 060 4400

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Cost Estimates

- 7.6 It is not possible for the Inspectorate to provide an estimated cost of the examination in advance of submission.
- 7.7 An estimate of the number of days the Inspector will need to examine the DNS will be provided following the confirmation of procedure. This does not guarantee a cost for the examination and should only be used as a guide.

Finance

Refunds and Remissions

- 7.8 Applicants are entitled to a refund in relation to the LIR fee, where one of the following applies:
- the submission of the LIR by the LPA is outside the deadline (further details are set out in the regulations)
 - where the applicant withdraws the application before the LIR is submitted by the LPA
 - where the application is not accepted as valid by the Inspectorate
- 7.9 Applicants should be aware that refunds and remissions do not apply to any other DNS fees or costs in any circumstances.

Invoicing

- 7.10 The Inspectorate is able to invoice applicants for certain fees. Applicants are advised that these should be requested in advance of when payments are due.
- 7.11 If applicants require a purchase order, this can be arranged, but requests must be made to the Inspectorate from the outset.
- 7.12 Invoices for the ongoing costs of the examination (daily rates, travel costs, etc) can be issued to applicants once at the end of the process, or monthly. It is up to the applicant to inform the Inspectorate of their preference.

Failure to Pay Examination Costs

- 7.13 Any fee relating to the examination must be paid within 21 days of the relevant invoice being sent to the applicant. If the applicant fails to pay any fee within the 21 day period, the Inspectorate may not take any further steps with the application until payment has been received.
- 7.14 A failure to pay any fee due within 12 weeks will result in no further action being taken on the application, and the application will be deemed to be withdrawn.

Payment of Fees

- 7.15 DNS Fees to be paid by the applicant can be transferred via BACS, or as detailed above, invoices can be sent directly from the Inspectorate to the applicant.

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7.16 The Inspectorate does not receive automatic notifications of payment, so it is important that applicants contact us when fees have been paid, to avoid delays in processing the application.

Terms of Reference

7.17 A financial terms of reference is available to applicants. Please contact us if you would require a copy.

Appendix 1: Role of public bodies

1.1 This appendix explains the involvement of other public bodies in the DNS process, both in relation to roles as consultees on proposed DNS projects and where such bodies have parallel consenting powers.

Which public bodies are involved?

NRW

1.2 NRW has the status of a specialist consultee in the DNS process. This typically involves:

- The provision of (informal) pre-application advice to the applicant
- A substantive response to the (formal) pre-application consultation
- A substantive response to the consultation on the submitted application
- The provision of further written representations or expert evidence during the examination.

1.3 NRW is a consultation body in the EIA process. This involves:

- The provision of advice during the screening process,
- The provision of advice during the scoping process,
- The provision of an opinion on the draft Environmental Statement
- The provision of an opinion on the final Environmental Statement
- The provision of further written representations or expert evidence relating to EIA during the examination.

1.4 NRW is also responsible for granting consents or licenses under a number of Acts. These additional consents/licences do not form part of the DNS application process, but may be required to implement the project. Further information can be found in [NRW's DNS guidance](#).

The Welsh Government

1.5 Different branches of Welsh Government, such as Cadw, may be consulted in respect of specific aspects of the EIA process.

LPAs

1.6 A Local Authority could have a role as a specialist consultee on a DNS application, whilst also providing an important local perspective at the pre-application stage.

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When are public bodies involved in the DNS process?

Pre-application Stage

- 1.7 During the statutory pre-application stage, developers are required to consult specialist consultees or relevant persons. These include organisations with particular expertise in or responsibility for matters relevant to the proposal.
- 1.8 Applicants should identify likely specialist consultees or relevant persons early in the project's development, and seek to engage with these bodies in advance of the formal pre-application consultation.

Environmental Impact Assessment

- 1.9 If the Inspectorate receives notification from an applicant that they intend to provide an Environmental Statement (ES), or if the Inspectorate has issued a positive screening direction, the LPA will be notified of their duty³ to enter into consultation with the person who intends to submit the ES and provide relevant environmental information.
- 1.10 Where the Inspectorate receives a request for a scoping direction, the relevant LPA and other bodies will be consulted before the issuing of a scoping direction.

Examination Stage

- 1.11 The representation period, lasting for 5 weeks from the date of validation of a DNS application, is an opportunity for relevant public bodies to submit representations regarding the merits of the scheme.

Related consents

- 1.12 Some public bodies may have powers to grant consents, licences or authorisations.
- 1.13 It is the responsibility of the applicant to ensure that they have considered if any other consents may be required in respect of a DNS application. It is also the responsibility of the applicant to contact any relevant public bodies to discuss the timing of relevant consent application processes.

³ Section 15(5) of The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017

Appendix 2: Secondary and Related Consents

- 2.1. To minimise the number of separate applications required for a DNS scheme, certain connected applications for licenses, orders, notices and consents can be submitted to the Welsh Ministers at the same time as a DNS application.
- 2.2. The Welsh Ministers are also able to call in secondary consents if they consider them to be connected to a DNS application, and the developer has not already submitted them alongside the primary application.
- 2.3. This may apply to undetermined consents which have already been applied to the normal consenting authority and those which have not yet been submitted to any authority.

Pre-Application Advice

- 2.4. Pre-application consultation should include those bodies who will be consulted on any secondary consent application. Secondary consents may have different consultees, so developers should pay particular attention to the associated guidance for each type of application to identify relevant consultees.
- 2.5. The relevant secondary consents are as follows:

Legislation	Consent
Ancient Monuments and Archaeological Areas Act 1979 - Section 2	Control of works affecting scheduled monuments, grant of scheduled monuments consent.
Commons Act 2006 - Section 38	Sections 16 & 17 – exchange of common land; Section 38 - works on common land.
Highways Act 1980 - Section 178	Restriction on placing rails, beams etc. over highway (consent).
Planning (Hazardous Substances) Act 1990 - Sections 4, 13 and 17	Section 4 - application for hazardous substance consent; Section 13 - applications for consent without condition attached to previous consent; Section 17 - application to continue consent on change of control of land.
Planning (Listed Buildings and Conservations Areas) Act 1990 - Sections 8 & 74	Section 8 - authorisation of work, listed building consent; Section 74 - control of demolition in conservation areas.
Town and Country Planning Act 1990 - Section 57, 247, 248 & 251	Section 57 - planning permission required for development Section 247 - stopping up or diversion of highway; Section 248 - highways crossing or entering route of proposed new highway Section 251 - extinguishment of rights of way over land held for planning purposes

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Non-secondary Consents

- 2.6. At an early stage, applicants should consider if licences/consents are required from NRW or other bodies, separately from the DNS process. Applicants should aim to 'twin-track' any related consents with the DNS application.

Related Consents

Works relating to overhead electric lines

- 2.7. Changes made to the DNS regime in 2019 bring further consents into the DNS system. The installation of overhead electric lines with a voltage of 132KV or less, and which are associated with devolved Welsh generating stations, are now considered part of the DNS regime.
- 2.8. Applications for overhead electric lines must describe the length and voltage, and provide a statement specifying whether all necessary wayleaves have been agreed with owners and occupiers of land to be crossed by the line.

Appendix 3: Environmental Impact Assessment

- 3.1 Under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended) ('the 2017 Regulations'), the Welsh Ministers have the power to direct when an application is EIA development. Applicants may also decide to undertake a voluntary EIA without requesting a direction from the Welsh Ministers.
- 3.2 Applications which are 'EIA development' must be accompanied by an ES that reports on the likely impacts on the environment.
- 3.3 Even where a DNS is not EIA development, certain environmental information may still be required with the application, for example a flood risk assessment, a landscape and visual impact assessment, or information on the historic environment.

DNS Applications and EIA

Pre-Application Stage

- 3.4 An applicant intending to submit a DNS application must first notify the Inspectorate of the proposed application, this must include either a negative screening direction or a statement confirming that an ES will be provided⁴. Prospective applicants are therefore encouraged to consider whether their application will require EIA at an early stage.
- 3.5 Applicants may choose to request an EIA screening or scoping direction from the Inspectorate in relation to DNS applications. There is no charge for statutory EIA screening or scoping directions.

EIA Screening

- 3.6 Advance notification by the applicant of a formal screening direction request is welcomed. A red line boundary submitted in advance would also assist the screening exercise.
- 3.7 The Inspectorate must issue a screening direction within 21 days of receiving a request, unless circumstances dictate otherwise.

Information to be provided with EIA Screening Requests

- 3.8 The minimum information that applicants must provide with a screening request for a DNS is set out in the 2017 Regulations⁵. This includes a plan, a brief description of the nature and purpose of the development, a description of its

⁴ Article 5 of the Developments of National Significance (Procedure) (Wales) Order 2016

⁵ Regulation 31 of the 2017 Regulations.

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possible effects on the environment, and a statement that the request is made in relation to a DNS.

3.9 In dealing with the description of the development and its possible effects on the environment, applicants should:

- set out the information using the headings in Schedule 3 to the 2017 Regulations, being:
 - characteristics of the development;
 - location of the development; and
 - characteristics of the potential impacts;
- ensure that all aspects of the environment likely to be significantly affected by the development are addressed.

EIA Scoping

3.10 An applicant may request a formal scoping direction⁶ on the information to be included in the ES. The Inspectorate must issue a scoping direction within 5 weeks of receiving a scoping request, or such longer period as may be reasonably required.

3.11 There is no requirement for an applicant to request a scoping direction. In order to gain the most benefit from the process, applicants should request a scoping direction once there is:

- sufficient certainty about the description of the proposed development, and
- sufficient understanding of the main elements of the proposed development likely to have a significant environmental effect.

3.12 Applicants should be aware that the Inspectorate and statutory consultees will only be able to provide high level comments where multiple and varied design and layout options remain under consideration.

3.13 The scoping direction will include any consultation responses received in relation to the scoping request, comments on the scope of the ES, and comments on the methodology proposed (including suggested consultation).

Information to be provided with a scoping request

3.14 The minimum information that the applicant must provide with a scoping request is the same minimum information that must be provided with a screening request⁷.

3.15 Applicants should provide their scoping request in the form of a scoping report. This document should contain all information required by the 2017 Regulations, plus the following additional information:

⁶ Regulation 33 of the 2017 Regulations.

⁷ Regulation 33(2) of the 2017 Regulations.

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- an outline of the main alternatives considered and the reasons for selecting a preferred option;
- results of desktop and baseline studies where available;
- a record of consultation undertaken with relevant bodies (including any public engagement) to date;
- referenced plans presented at an appropriate scale to convey clearly the information and all known aspects associated with the proposal;
- guidance and best practice to be relied upon, and whether this has been agreed with the relevant bodies (for example the statutory nature conservation bodies or local authorities) together with copies of correspondence to support these agreements;
- methods used or proposed to be used to assess impacts and the significance criteria framework used;
- any mitigation proposed and the extent to which these are likely to reduce impacts;
- where impacts from consequential or cumulative development have been identified, how applicants intend to assess these impacts in the ES (for example, a high level assessment of the grid connection where this does not form part of the proposed development for a power station);
- an indication of any European designated nature conservation sites that are likely to be significantly affected by the proposed development and the nature of the likely significant impacts on these sites;
- key topics covered as part of applicants' scoping exercise; and
- an outline of the structure of the proposed ES.

3.16 The elements of the proposed development likely to have a significant environmental effect should also be identified. Where uncertainty remains, the applicant should provide as much detail as possible or assume the worst case.

Content of Scoping Request

3.17 Where the applicant wishes to scope out matters, justification should be provided.

3.18 The Inspectorate will determine whether matters may be scoped out, having taken into consideration the information provided in the applicant's scoping report and the comments provided by any consultees.

3.19 Applicants should note that matters are not scoped out unless specifically confirmed by the Inspectorate in the scoping direction.

3.20 The scoping direction can only respond to the information available at that time. Therefore, it will be reasonable for applicants to refine topics within the ES. This should result in a more focussed ES. To support with this, the Inspectorate can provide ongoing pre-application advice. Where necessary, the Inspectorate can issue updates to Scoping Directions.

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Requests for Additional Information

- 3.21 If sufficient information has not been provided with a screening or scoping request, the Inspectorate may request additional information⁸.
- 3.22 Where additional information is requested, the relevant statutory time periods are suspended until the additional information is received to the satisfaction of the Inspectorate.

Consultation Stage

- 3.23 Applicants should use this stage of the process to give consultees, including members of the public, an opportunity to comment on a draft ES.
- 3.24 Applicants should allow enough time to consider and respond to comments received on the draft ES, including, if necessary, undertaking additional surveys and analysis. Any adjustments or changes to the ES as a result of the consultation should be recorded in the Consultation Report.

Submission Stage

- 3.25 Where the DNS is an EIA development, the Inspectorate will have 42 days to determine whether an application is valid. During the validation stage, the Inspectorate will check the ES for adequacy.
- 3.26 To be considered valid, an application for a DNS that is EIA development must also include an adequate ES.
- 3.27 Where the Inspectorate is of the opinion that the ES should contain additional information, the applicant will be notified and must provide that additional information⁹.

Re-screening

- 3.28 Prior to submission of the DNS application, if new information becomes available that may affect whether the proposal is EIA development, or where the proposed development itself changes to an extent that may affect the screening direction, applicants should submit a new screening request.
- 3.29 Similarly, if a DNS is submitted and it is apparent that subsequent information material to the screening decision has become available, the Inspectorate will re-screen the proposed development before the application is validated.
- 3.30 If the re-screening determines that the application is EIA development, an ES will be required. Consequently, the Inspectorate will not validate the DNS application until an ES is provided by the applicant.

⁸ Regulations 7(3) and 33(4) of the 2017 Regulations for screening and scoping requests respectively.

⁹ Regulation 24(1) of the 2017 Regulations.

Examination Stage

- 3.31 The ES will be considered carefully during a DNS examination. If at any stage of the process the ES is found not to be adequate the process will be suspended and further information will be requested.

Appendix 4: Habitats Regulations Assessment

4.1 This chapter should be read in conjunction with the Habitats Directive, the Conservation of Habitats and Species Regulations 2017 (as amended), and the Conservation of Offshore Marine Habitats and Species Regulations 2017, and all other relevant legislation and policy. It is the applicant's responsibility to ensure that all relevant and current policy, legislation and guidance have been considered.

HRA Regulations – purpose and effect

4.2 The Welsh Ministers are the competent authority for the purposes of the Habitats Directive¹⁰ and the Habitats Regulations¹¹ in relation to applications for DNS. The Welsh Ministers are therefore required to carry out and consult on an Appropriate Assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site or a European Marine site.

4.3 If a DNS, when taken alone or with existing and known future plans and projects is likely to affect a European site, the applicant must provide the competent authority with such information as may reasonably be required for the purposes of the AA¹².

4.4 This information normally takes the form of a No Significant Effects Report (NSER) or a Likely Significant Effect Report (LSER). HRA matrices should be appended to or included in the applicant's NSER (screening matrices) or LSER (both matrices); but they do not replace the applicant's NSER or LSER.

4.5 Where an AA is carried out and results in a negative assessment, consent can only be granted if there are no alternative solutions, there are Imperative Reasons of Overriding Public Interest (IROPI) for the development¹³, and compensatory measures have been secured.

European Sites

4.6 Sites of Community Importance (SCIs), Special Areas of Conservation (SACs), candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs) are protected under Regulation 8 of the Habitats Regulations.

10 Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (as codified)

11 The Conservation of Habitats and Species Regulations 2017 (as amended)

12 Regulation 63(2) of the Habitats Regulations 2017 (as amended), Regulation 28(3) of the Conservation of Offshore Marine Habitats and Species Regulations 2017

13 If the site hosts a priority natural habitat type or a priority species further conditions apply in relation to the reasons as explained in this note. "Priority" habitat types and species are particular SAC features for which EC member states have particular responsibility. They are listed in the Annexes to the Habitats Directive and usually also identified on individual SAC designation documents. They are not relevant to SPAs or Ramsar sites.

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- 4.7 TAN 5 paragraphs 5.2.2 and 5.2.3 apply the procedures described below to possible SACs (pSACs), potential SPAs (pSPAs), Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on any of the above sites. For the purposes of this chapter, all these sites are referred to as “European sites”.

Coordinating HRA with the DNS process

Early Engagement

- 4.8 It is advised that the applicant commences consultation with NRW at the earliest point in the pre-application process.
- 4.9 Evidence of the outcome of this consultation with NRW should therefore be appended to the NSER or LSER. This will be key to the decision making process, as the competent authority must consult NRW and have regard to any representations made by them¹⁴.

Applicants are strongly advised to engage with NRW early on to agree baseline information, methodology, and evidence. Evidence plans, jointly agreed between NRW and the applicant, are useful in establishing a work programme for the pre-application stage.

- 4.10 The applicant’s NSER or LSER should provide the reasoning and evidence behind its conclusions. This is likely to be supported by the information presented in the ES for the DNS application. The applicant’s NSER or LSER must show how the information gathered has been applied to the HRA and the tests applicable to the Habitats Directive.
- 4.11 Applicants are strongly advised to use completed HRA matrices to identify and discuss issues with consultees, particularly NRW, with the aim of resolving issues prior to the examination.

HRA Stage 1: Screening

- 4.12 The scope of the HRA should be defined and justified. The HRA should include screening for Likely Significant Effects (LSE). If there are no LSE identified for all the European sites considered, then the report is likely to take the form of a No Significant Effects Report (NSER) and HRA stages 2-4 will not be required.
- 4.13 The applicant’s HRA Stage 1 screening information to be presented in the NSER or LSER should include:

14 Regulation 63(3) of the Habitats Regulations 2017 (as amended)

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- a detailed description of the development, processes, timings, and method of work proposed as part of the DNS;
- details of the methodology used to determine which European sites should be included within the assessment, plus definition of and justification for the scope of the assessment;
- a plan and description of the European site(s) potentially affected, including a description of all qualifying features (a copy of the site data sheet is useful to include);
- an appraisal of the potential effects resulting from the construction and operation of the project (e.g. noise) and the likely significant effect on the European site(s) and qualifying features (e.g. disturbance to bird species);
- an outline and interpretation of the baseline data collected to inform the findings;
- an appraisal of the effects of any other plans or projects which, in combination with the proposed development, might be likely to have a significant effect on the European site(s). The scope of that appraisal should be well-defined and agreed with the local authorities and NRW;
- an evaluation of the potential for the scheme to require other consents requiring consideration of LSE by different competent authorities (other than secondary consents which form part of the DNS application);
- a statement which identifies (with reasons) whether significant effects on European sites in other EEA States are considered to be likely; and
- evidence of agreement between the applicant and NRW on the scope, methodologies, interpretation, and conclusions of the screening assessment (such as copies of correspondence, Evidence Plans, or Statements of Common Ground).

4.14 At Stage 1, in relation to each European site and qualifying feature, the applicant will need to conclude from baseline information and consultation responses received that either:

- There are no LSE on all the European site(s) and qualifying features considered, either alone or in combination with other plans or projects, and therefore no further assessment is required (see later section entitled 'NSER'), OR
- LSE on any of the European site(s) and qualifying features considered exist, either alone or in combination with other plans or projects, therefore requiring an AA by the competent authority (see later section entitled 'HRA Stage 2: AA').

4.15 Competent authorities cannot take account of any integrated or additional avoidance or reduction measures when considering at the HRA screening stage whether the plan or project is likely to have an adverse effect on a European site.

4.16 The screening stage must be undertaken on a precautionary basis without regard to any proposed integrated or additional avoidance or reduction measures. Where the likelihood of significant effects cannot be excluded, on the basis of objective information the competent authority must proceed to carry out an AA to establish whether the plan or project will affect the integrity of the European site, which can include at that stage consideration of the effectiveness of the proposed avoidance or reduction measure.

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In combination effect(s) on European site(s)

- 4.17 Applicants must conclude whether the project, either alone or in combination with other plans or projects, is likely to have a significant effect on a European site.
- 4.18 Some projects may be unlikely to have significant effects on their own but effects in combination with other plans or projects may be significant. The applicant must therefore provide evidence in the NSER or LSER that it has considered effects, both alone and in combination with other plans and projects.

No significant effects report (NSER)

- 4.19 The European Court of Justice (ECJ) in the *Waddenzee* case considered that the effects of the project should be '*identified in the light of the best scientific knowledge in the field*¹⁵. There should be a continuous evaluation of the assessment findings against thresholds of LSE.
- 4.20 If, during the process, the competent authority determines that there is 'no significant effect (alone or in combination)' and no reasonable scientific doubt remains, then the assessment can be concluded. The applicant should then summarise the results in an NSER.
- 4.21 In considering the NSER's conclusion that there are no LSE requiring AA, the Inspector will have regard to the decision in the *Waddenzee* case, in which the ECJ took the view that '*the competent national authorities, taking account of the conclusions of the appropriate assessment.....are to authorise such activity only if they have made certain that it will not adversely affect the integrity of that site. That is the case where no reasonable scientific doubt remains as to the absence of such effects*¹⁶.
- 4.22 There is no prescribed format for the NSER or for the reporting of the outcomes of the screening stage. The NSER must be clear, be supported by sufficient information, and provide convincing reasons why the applicant has reached the view that there are no LSE and that an AA will not be required.

Screening outcomes

- 4.23 If the applicant has concluded that the project is likely to have a significant effect on any European site, alone or in combination with other projects, the applicant must provide information in accordance with the HRA Stage 2: AA of the process.
- 4.24 If Stage 1 identifies LSE for any of the European sites considered, an assessment of the implications of the project on the site(s)'s conservation objectives¹⁷ will be

15 Paragraph 54 of Waddenzee (see footnote 5 for details)

16 Paragraph 59 of the ECJ judgment in Waddenzee (see footnote 5 for details)

17 Regulation 61(5) of the 2010 Habitats Regulations

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required. This will take the form of an LSER and should include sufficient information for the AA.

- 4.25 Along with their HRA Stage 2: AA information, the applicant should also clearly state which European site(s) and qualifying features are being taken forward from HRA Stage 1: Screening and which European site(s) and qualifying features have been screened out of further assessment.
- 4.26 The HRA Stage 2: AA information should be presented in the applicant's LSER and should include:
- evidence about the project's effects on the integrity of protected sites;
 - a description of any mitigation measures proposed which avoid or reduce each effect, and any remaining residual effects;
 - a schedule indicating the timing of mitigation measures in relation to the progress of the development;
 - cross references to the relevant DNS requirements and any other mechanisms proposed to secure mitigation measures, and identification of any factors that might affect the certainty of their implementation;
 - a statement as to which (if any) residual effects constitute an adverse effect on the integrity of European sites, either alone or in combination with other plans or projects, and therefore need to be included within the AA; and
 - evidence to demonstrate that the applicant has fully consulted and had regard to comments received by NRW during pre-application consultation.
- 4.27 The applicant's LSER is also expected to include the integrity matrices for all the European sites taken to HRA Stage 2.

Negative Appropriate Assessment

- 4.28 Unless the applicant's LSER concludes that no reasonable scientific doubt remains '*identified in the light of the best scientific knowledge in the field*¹⁸'; and that the project will not adversely affect the integrity of any European site, alone or in combination with other plans or projects, the applicant's assessment will need to move to HRA Stages 3 and 4 of the process.

HRA Stages 3 & 4: Assessment of Alternatives & Consideration of IROPI

- 4.29 If Stage 2 concludes that the project will adversely affect the integrity of the site(s), or is inconclusive; consideration of alternatives, compensatory measures and whether the project is justified by IROPI will be required. This will also form part of the LSER.
- 4.30 An assessment of alternative solutions should be undertaken, and details of how these have been identified and considered should be provided in the applicant's

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LSEr. The applicant's assessment constitutes information to inform the competent authority's assessment.

- 4.31 Where it can be demonstrated that there are no alternative solutions to the project that would have a lesser effect or avoid an adverse effect on the integrity of the European site(s), the project may still be carried out if the competent authority is satisfied that the scheme must be carried out for IROPI. Where priority natural habitats or species will be affected, the IROPI justification should be provided in the LSEr and must relate to either:
- human health, public safety or beneficial consequences of primary importance to the environment; or
 - have due regard to any opinion from the European Commission, any other imperative reasons of overriding public interest.

Submission and examination

- 4.32 Following submission, checks for validity will be mainly procedural, but during this time, the Inspectorate will also check that sufficient information is submitted in order to determine the application.
- 4.33 Where the applicant's conclusions have been disputed during the examination, the report will include revisions to any HRA matrices submitted. The report, and any related consultation responses and examination material, will form part of the evidence base for the Inspector's report and recommendation to the Welsh Ministers.

The Inspector's report

- 4.34 The Inspector's report will address the LSE of the project on any European site(s) and qualifying features and, if appropriate, also consider whether the project will have an adverse effect on the integrity of European site(s). Where necessary, the Inspector's report will assess evidence from the examination relating to the case for no alternatives, IROPI and compensatory measures. Welsh Ministers will then consider all the examination evidence prior to making a determination on the DNS application.

Appendix 5: Local Impact Reports

- 5.1 This appendix is primarily aimed at LPAs or Community Councils to assist with the form and content of a Local Impact Report (LIR).

Overview of LIRs and the DNS Process

- 5.2 It is a formal requirement of the DNS process that any relevant LPA must submit an LIR, giving details of the likely impact of the proposed development on the authority's area.
- 5.3 There is also provision within the regulations for other LPAs or Community Councils to submit a Voluntary LIR.

What is the process for producing an LIR?

- 5.4 The LIR is a written report detailing the likely impact of the proposed development on any part of the LPA's area, based on their existing body of local knowledge and robust evidence of local issues, and should list the impacts and their relative importance.
- 5.5 The Inspectorate will inform the relevant LPAs when an application is received. Once they are notified, LPAs have 5 weeks to submit their LIR.
- 5.6 If an LIR does not meet the statutory requirements the Inspectorate will notify the LPA that the LIR that it is not complete. Further information must be submitted from as soon as possible.
- 5.7 In coming to a decision on a DNS application, the Welsh Ministers must have regard to any LIRs that were submitted, including voluntary LIRs that were submitted in accordance with the Order.

General Approach to the LIR

- 5.8 The LIR is meant to give a factual, objective view of the impacts of the proposed development on the area in question. The impacts should be presented in terms of their positive, neutral and negative effects.
- 5.9 The report is distinct from any representation a local authority may make on the merits of an application. A Local Authority or individual Councillor may submit a separate representation on the merits of the application.
- 5.10 The LIR may draw attention to matters raised with the LPA by interested parties or community groups, but only if the LPA considers those matters to be planning considerations that should be included in an LIR.
- 5.11 In producing an LIR, the local authority is not required to carry out its own consultation with the community.

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Timescales for producing the LIR

- 5.12 LPAs have 5 weeks to submit their LIRs following notification of a valid DNS. The Inspectorate has the power to vary this period, but this will only be done in exceptional circumstances.
- 5.13 In practice LPAs should know about the application some time before it is submitted.

LIR and Fees

- 5.14 If an LPA fails to submit the LIR within the time specified by the Inspectorate, the full fee will not be passed to the LPA.
- 5.15 If the deadline is missed by up to 14 days the LPA will receive half the fee. The LPA will not receive any of the fee if the LIR is provided more than 14 days after the deadline. However, it is still a requirement that the LIR be provided.
- 5.16 To ensure full payment for the work required, an LPA should ensure preparation of the LIR is started in sufficient time to allow them to meet the deadline.

Content of the LIR

- 5.17 The minimum requirements for the content of a mandatory LIR is as follows:

- The likely impact of the DNS development on the area, | (In the Act)
 - Planning history of the site,
 - Local designations relevant to the site / surroundings,
 - The likely impact of any application in relation to a secondary consent being granted,
 - Any relevant local planning policies, guidance or other documents,
 - Draft conditions or obligations which the LPA considers necessary for mitigating any likely impacts of the development,
 - Evidence of the Publicity undertaken by the LPA in accordance with the Procedure Order, i.e. a copy of the Site Notice, a photograph of the Site Notice on display and a map showing the location of the Site Notice.
- (in the Procedure Order)

- 5.18 A Voluntary LIR must contain:

- The likely impact of the development on the area,
- A description of the likely impact of any application in relation to a secondary consent being granted,
- Locally applicable planning policies, guidance and other documents relevant to the application,

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- Draft conditions or obligations which the LPA or Community Council considers necessary for mitigating any likely impacts of the development.
- 5.19 The report should consist of a statement of positive, neutral and negative local impacts, but it should not contain a balancing exercise between positives and negatives. The LPA may submit its own balancing exercise as a written representation, separate to the LIR.
- 5.20 The LIR should not repeat material which is contained in application documents or Statements of Common Ground etc. but may cross refer to those documents.
- 5.21 This guidance is not intended to be either exhaustive or prescriptive. LPAs should cover any topics they consider relevant to the impact of the proposed development on their area.

Impacts of the Development and Secondary Consents

- 5.22 It is important that the LIR or Voluntary LIR contains a summary of the LPA's predictions for impacts on their area, both positive and negative.
- 5.23 It would be of benefit if the LPA is able to give its view on the relative importance of different social, environmental or economic issues and the impact of the scheme on them.
- 5.24 Where applicable, the distinction between impacts directly relating to the DNS development and those relating to each Secondary Consent should be made clear.

Conditions and Obligations

- 5.25 It is expected that applicant will have engaged with LPAs regarding these matters early in the process and sought to reach agreement with the LPA prior to submission where possible.
- 5.26 Where specific mitigation or compensatory measures are proposed by the applicant, these should be identified and commented upon. Local authorities should mention them explicitly. The same applies to conditions or obligations that the LPA considers ought to be included not put forward by the applicant.
- 5.27 The conditions and obligations may be put forward by the LPA on a 'without prejudice' basis. It is open to the LPA to make it clear in a separate representation whether they consider permission should be granted or refused.

Publicity

- 5.28 LPAs should set out clearly their terms of reference for the LIR, i.e. include a section that sets out the structure and purpose of the document and identifies any limitation to the information therein.

The LIR and other DNS Application Documents

- 5.29 It is important that repetition of material is avoided, which may be included elsewhere in the application documents.

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- 5.30 Community Councils, organisations and members of the public may have made representations to the local authority or directly to the applicant about the scheme. The LIR could include reference to these representations, but only where they are relevant to a particular local impact which the LPA itself wants to highlight.
- 5.31 The LIR may also wish to draw on the Consultation Report, including any consequential impacts arising from any amendments to the pre-application scheme.

Appendix 6: Planning Obligations

- 6.1 Advice on the use of planning obligations can be found in Circular 13/97. Reference should also be made to The Community Infrastructure Levy Regulations 2010 and whether the local planning authority has adopted a Community Infrastructure Levy (CIL) Charging Schedule.
- 6.2 In accordance with the DNS regulations, it is a requirement that an application should include a written statement about the status of discussions between the applicant and the LPA regarding planning obligations. An application will not be validated without such a statement.
- 6.3 Any discussions on the matter of planning obligations will need to start well before any application is submitted.
- 6.4 As part of the LIR, the LPA should include any draft obligations considered necessary to mitigate the impact of the proposed development.
- 6.5 A completed Section 106 Agreement should be deposited to the Inspectorate by week 15 of the DNS examination process. The Inspector may agree to accept a completed agreement on the opening day of the Hearing or Inquiry (where such an event is to be held).
- 6.6 The issuing of a recommendation report (or the decision in cases of overhead electric lines) to Welsh Ministers will not be delayed if a completed planning obligation has not been submitted.

Appendix 7: The Consultation Report

7.1 A DNS application must be accompanied by a pre-application Consultation Report which provides:

- An account of the statutory consultation, publicity, deadlines set, and activities required under section 61Z of the 1990 Act, including:
 - copies of all notices and publications used during the consultation;
 - declarations that the relevant notices and publication requirements comply with the Act and Order;
 - the addresses of those given notice of the proposed application;
- a summary of all issues including confirmation of whether the issues raised have been addressed and, if so, how; and
- the particulars of all responses received from persons consulted, including copies of responses from specialist consultees; and the account taken of these.

7.2 Applicants should aim to prepare a focused, concise report. It is recommended that applicants structure their Consultation Report as follows:

Chapter 1: Context

Chapter 2: Statutory consultees

Chapter 3: Statutory publicity

Chapter 4: Number of responses, by type

Chapter 5: Responses from statutory consultees and consequent actions

Chapter 6: Main issues

Appendix 1: Declarations of compliance with the Act/Order

Appendix 2: Copies of notices, publicity and letters

Appendix 3: List of addresses of those consulted

Appendix 4: Original copies of responses from statutory consultees

Statutory consultees

7.3 The report should include a full list of statutory consultees. It should identify why each body consulted classifies as a statutory consultee, and how they were consulted. If statutory consultees were consulted on multiple occasions, this should be explained.

7.4 The report should evidence how community consultees were identified, by including a map showing the site and boundaries of the relevant wards and Community Councils.

Statutory publicity

7.5 The applicant is required to publicise the proposed application in such manner as is reasonably considered likely to bring it to the attention of a majority of the persons who own or occupy premises in the vicinity of the land. This includes:

- displaying at least one site notice,

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- serving written notice on owners or occupiers of land adjoining the site,
- publishing a notice in the local newspaper, and
- publishing all documents on a website for a period of not less than 42 days.

7.6 The Consultation Report should provide evidence of this publicity. It should:

- Identify the location(s) of site notices and the dates on which they were displayed and taken down,
- Include a map identifying the adjoining properties (as point data) on which written notice was served,
- Identify the date on which the notice was published in the local newspaper, and
- Confirm the time period that the notices allowed for responses to be submitted.

7.7 The report must include declarations confirming that at least one site notice was displayed on or near the site, and that all documents were published on a website for at least 42 days.

7.8 The report must also include, as appendices:

- The two declarations
- Copies of all publicity and notices as they originally appeared (including confirmation of the newspaper and date in which the public notice was published), and
- a list of addresses of all those consulted (including statutory consultees).

Number of responses, by type

7.9 The report should quantify the total number of responses received. It should summarise the total number of responses by:

- Category of respondent
- Whether the response is in objection or support, and
- The related main issue.

7.10 The report should indicate the number and nature of any responses which, in the opinion of the applicant, were not duly made.

7.11 If any responses were received on matters relating solely to a secondary consent, the report should identify how many were received, to which consent they relate, and who made them.

7.12 If a respondent making an objection to a secondary consent has indicated that they wish to exercise a statutory right to be heard, they should be identified.

Main issues

7.13 The report should provide a summary of the main issues raised following receipt of responses, and how these responses have been addressed in the submitted planning application.

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7.14 The main issues should be identified following an analysis of all responses, whether from statutory consultees, adjacent owners/occupiers or others.

7.15 A template for grouping main issues is provided below.

Main issue <i>(Provide a short title which encapsulates the key matters raised in the responses)</i>	
Relevant application documents:	<i>List the principal document(s) to which this main issue relates.</i>
Respondents:	<i>List the full names of the organisations / persons submitting the response, plus a unique reference number for each response.</i>
Applicant's summary of the responses:	<i>Summarise the responses received. Provide a short description of the potential impacts raised or specific facets of the development being objected to. Wherever possible, group responses to avoid repetition.</i>
Applicant's response, including reasons:	<i>Set out the applicant's reasoned response to the issues raised (generally expressed in less than 1,000 words per main issue). Explain the reason for amending or not amending the proposal. Where changes have been made to the proposal, identify the nature of these.</i>

7.16 Careful consideration should be given to all responses. A reasoned response to a significant objection may help to reduce the need to provide written representations during the examination.

7.17 Responses which relate to the same (or closely linked) matter, or to a specific part of a site, can be grouped into a single main issue.

7.18 Issues relating to a secondary consent should be identified in a separate schedule or schedules.

Responses from statutory consultees and consequent actions

7.19 The applicant is required to incorporate copies of responses from specialist consultees and explain how it has taken account of these responses.

7.20 It is recommended that the report includes a schedule incorporating the following information:

- Consultee name and ID
- Response ID [if the consultee has raised a number of distinct issues, or has made more than one response, give each part a distinct ID]
- Summary of response

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- Main issue(s)
- Relevant consent to which the response relates
- Applicant's consequent actions

7.21 The Inspectorate recommends that the schedule provides a summary of responses from all statutory consultees, rather than just specialist consultees.

7.22 Scanned copies of the original responses should be appended to the report. It is recommended that the responses of all statutory consultees are included, rather than just specialist consultees.

Appendix 8: Feedback and Complaints

How we handle complaints

- 8.1 There is no right of appeal against the decision of Welsh Ministers to grant or refuse to grant planning permission for a DNS.
- 8.2 The Inspectorate cannot change a decision nor the Inspector's report. However, the Inspectorate does try hard to ensure that everyone who uses the DNS application process is satisfied with the service they receive.
- 8.3 Complaints concerned specifically about the Welsh Ministers decision should be addressed directly to The Planning Directorate of Welsh Government.
- 8.4 All complaints or requests for clarification are handled by the Quality team. They will reply as soon as possible in clear, straightforward language, avoiding jargon and complicated legal terms.
- 8.5 The Inspectorate can be contacted by email, post, or phone. All correspondence will be acknowledged, and a timescale for replying will be provided. The Inspectorate aim to reply to 80% of all correspondence within 20 working days.

How we investigate complaints

- 8.6 There is no time limit in which complaints must be made, but it would be expected for them to be made promptly once the reason for the complaint becomes apparent.
- 8.7 Whilst the Inspectorate can deal with complaints at any time, our ability to do so thoroughly may be restricted if the file has been destroyed, and the recollections of the people concerned will naturally fade over time. In such circumstances, complainants will probably need to send us documents to support their complaint.
- 8.8 It is the job of the Quality team to investigate complaints about procedure, administrative decisions or an Inspector's conduct. All complaints are investigated impartially and as thoroughly as possible.
- 8.9 Sometimes complaints arise due to misunderstandings about how the DNS system works. When this happens we will try to explain things as clearly as possible.
- 8.10 It is very important to understand that an application cannot be re-opened to re-consider its merits or add to what the Inspector has said in their report or what the Welsh Ministers have said in their decision. We will however do our best to clarify things, if it is necessary and possible.
- 8.11 Sometimes a complaint is not one we can deal with, in which case the Inspectorate will explain this and suggest who may be able to deal with the complaint instead.

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- 8.12 Similarly, the Inspectorate cannot resolve any issues someone may have with the LPA about the planning system or the implementation of a planning permission.
- 8.13 If the complainant considers that the reply has not adequately responded to their concerns, the policy of the Inspectorate is that a senior manager will review their complaint and send a final reply.

Who is responsible for monitoring a development?

- 8.14 If planning permission is granted by Welsh Ministers on a DNS application, the LPA has the sole responsibility for monitoring the implementation of the permission and ensuring that it is in accordance with the plans and any conditions.
- 8.15 If the local planning authority considers that the development does not comply with the permission, they have the power to take enforcement action.
- 8.16 Complaints and responses to the Inspectorate are one way of helping to improve the DNS system.
- 8.17 If a mistake has been made, the Inspectorate will write to apologise and explain what has happened. If lessons can be learned from the mistake, changes will be made, so that similar errors can be avoided in future.
- 8.18 Remedies may include:
- an apology, explanation, and acknowledgement of responsibility;
 - remedial action which may include: reviewing service standards; revising published material; revising procedures to prevent the same thing happening again; training or supervising staff; or any combination of these.

Role of the Ombudsman

- 8.19 The Public Services Ombudsman for Wales can investigate complaints of maladministration against Government Departments or their Executive Agencies. Normally the Ombudsman will not investigate a complaint:
- unless the complainant has followed our complaints process completely and is still not satisfied with our replies; or
 - if there is a legal route that can be followed to challenge a decision.
- 8.20 For DNS applications, there is a legal route to challenge a decision.
- 8.21 Even if the Ombudsman does decide to investigate a complaint the Ombudsman cannot change the Welsh Minister's decision.
- 8.22 You can contact the Ombudsman at:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae,

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Pencoed
CF35 5LJ

phone: 0845 601 0987

e-mail: ask@ombudsman-wales.org.uk

website: www.ombudsman-wales.org.uk