



20 December 2024

Implementing the Infrastructure (Wales) Act 2024
Planning Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ
Via email at: infrastructureconsenting@gov.wales

Dear Planning Directorate

**RE: Welsh Government Consultation Document Infrastructure (Wales)
Act 2024 Implementing the Infrastructure (Wales) Act 2024 (WG50592)**

Thank you for extending our opportunity to respond to the above consultation. We have had the opportunity to review the consultation and provide our observations and feedback, particularly regarding noise assessments, environmental health involvement, statutory nuisance, and the pre-application consultation stages.

This response has been prepared by members of the Institute of Acoustics with relevant experience of working in Wales and has been approved by its Governing Council.

Below are some key points for your consideration:

Supplementary Surveys (Section 2.17 & 2.18):

It is noted in section 2.17 that supplementary surveys, such as noise assessments, may be required if project designs change, only at the discretion of Welsh Ministers. While this discretion is acknowledged, I believe that such decisions should also (or mainly) be informed by advice from the Local Authority Environmental Health Officer (EHO) and/or the appointed acoustic consultant. These professionals are best placed to assess whether changes significantly impact agreed noise limits or mitigation scopes. If disagreements arise, evidence from either party can guide Welsh Ministers in resolving disputes and determining if additional surveys are justified.

Similarly in section 2.1.8 decisions on supplementary surveys should be guided by input from the EHO or acoustic consultant. The current wording suggests that Welsh Ministers are the sole decision-makers in these instances. However, involving the acoustic consultant to assess significant



changes or recalling the EHP has proven effective in resolving issues early, preventing escalation to Welsh Ministers.

Generally, we are satisfied with the continuation of noise surveys, Environmental Statements (ES), and Environmental Impact Assessments (EIAs) passing over in this context detail in section 2.18, and should only be revisited if required.

Chapter 6

6.65:

Q1: Yes, the general approach seems reasonable.

Q2: There should be a formal requirement for Local Environmental Health (EH) Teams to provide input during consultations, particularly on noise and related environmental issues. Consultants may lack localised knowledge, and while Local Development Plans (LDPs) may offer some guidance, not all Planning Authorities have robust Supplementary Planning Guidance (SPGs) for noise or environmental concerns. Mandatory EH input at the pre-application stage would ensure consultants are aware of localised policies and issues, providing a clear point of contact and avoiding delays caused by additional requests for information later in the process. This approach would also allow EH teams to advise Welsh Government, agents, applicants, and consultants on potential impacts early, improving project outcomes and efficiency, which in turn engages an acoustic consultant in the very earliest stages of the process. It should be noted that, to our knowledge, EH/Noise teams are not statutory consultees and thus do not face the same reporting requirements as outlined in sections 7.46–7.50. Our view is that these reporting requirements should be extended to all those consulted within the LPA (confirmed - they are not listed as statutory consultees later in the document). I have long since found this an imbalance from the aims of PPW that amenity is a key consideration, as is the case within LDPs.

A secondary issue that pre-application consultations may highlight (and resolve) is the potential for discrepancies between neighbouring LPAs regarding noise. Robust, mandatory pre-application responses for projects impacting more than one LPA could help identify issues and seek continuity across jurisdictions.



A recent example of inconsistencies reported was within the Core Valley Line upgrades, where EH teams took varying approaches in the application of Control of Pollution Act 1974 S61 - prior consent for work on construction sites, leading to delays and (reported) increased costs. While this project wasn't an IC, it shares similarities with public-benefit initiatives under Welsh Government infrastructure. Additionally, there has been contact regarding an EH Noise team rejection of Environmental Noise Mapping 2022 (Data Map Wales) data as a reliable source, causing delays in consent for emergency works. These instances underscore the need for aligned approaches and improv

collaboration between LPAs to ensure consistent and efficient handling of noise issues.

Chapter 8.

8.41: Agreed.

8.63 – Q1: Yes, our view is that by default, an acoustic report should be submitted, and the details and depth of this should be considered within the Environmental Statement or pre-application consultation.
continued below:

8.10 Bullet Point 9:

While the intention behind section 8.10 bullet point 9, is to mitigate risks before they occur (as per PPW 12), I believe that aligning it with the Statutory Nuisance (SN) framework and EPA 1990 section 79 should be avoided. The subjective nature of determining whether noise amounts to SN needs to consider the permitted consent, alongside objective measurements, and case law such as *Gillingham Borough Council v Medway Dock Co Ltd* [1993], *Lawrence v Fen Tigers Ltd* [2014] and *Godfrey v Conway County Borough Council* 2000. All amenity issues, such as light, dust, and smoke, should be adequately addressed within the Planning Framework or raised by EH departments during pre-application consultations.

By introducing this section into the application process there may be a presumption from a future operator that by being granted consent that they *cannot* cause a SN under section 79(g). Whilst there are some existing protections for nuisance for statutory undertakers (Railways Act 1993 Section 122) these would need to be extended significantly to cover all those



installations consented under IC. Such an extension has obvious risks, and the advice again is the avoidance of the term SN.

Q6: While I agree that addressing issues late in the process can be frustrating, disengagement of statutory consultees from the pre-application process may occur if they feel their input is not being considered. To mitigate this, I believe it should be made mandatory for all statutory consultees to engage with the pre-application process to ensure their input is heard and to avoid issues arising later in the process.

Chapter 13:

Q.1 Generally we agree that the process is fine as it is, however it may be in this chapter that issues around the Environment (Air Quality and Soundscapes) Act 2024 may be more aligned with the Welsh Government's shift to "Soundscapes" and not total reliance on objective measurements.

We trust this is of assistance.

Yours faithfully



Tomos Jenkins, BSc (Hons) EHO, AMIOA
Chair – Welsh Branch IOA
on behalf of the Institute of Acoustics