WELSH STATUTORY INSTRUMENTS

2016 No. 58

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016

PART 5

Publicity and Procedures on Submission of Environmental Statements

Procedure where an environmental statement is submitted to a local planning authority

16.—(1) An applicant who makes an EIA application to the relevant planning authority must also submit a statement, intended to be an environmental statement and must provide the authority with one additional copy of the statement for transmission to the Welsh Ministers.

(2) If at the same time as it makes an EIA application the applicant serves a copy of the statement on any other body, the applicant must—

(a) serve with it a copy of the application and any plan submitted with the application (unless these have already been provided to the body in question);

(b) inform the body that representations may be made to the relevant planning authority; and

(c) inform the authority of the name of every body so served and of the date of service.

(3) When a relevant planning authority receive an environmental statement, the authority must—

(a) send to the Welsh Ministers, within 14 days of receipt of the statement, one copy of the statement, a copy of the relevant application and of any documents submitted with the application;

(b) inform the applicant of the number of copies required to enable the authority to comply with sub-paragraph (c);

(c) forward to any consultee which has not received a copy direct from the applicant, a copy of the statement and inform any such consultee that they may make representations;

(d) where the relevant planning authority are aware of any particular person who is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, send a notice to such person containing the details set out in regulation 17(2)(b) to (j) and the name and address of the relevant planning authority.

(4) The applicant must send the copies required for the purposes of paragraph (3)(c) to the relevant planning authority.

(5) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 12 of and Schedule 3 to the 2012 Order (publicity for applications for planning permission) apply to a subsequent application as they apply to a planning application falling within article 12(2) of the 2012 Order as if the reference in the notice in Schedule 3 to the 2012 Order to "planning permission to" read "consent, agreement or approval to".

(6) The relevant planning authority must not determine the application until the expiry of 21 days from the last date on which a copy of the statement was served in accordance with this regulation.

Publicity where an environmental statement is submitted after the planning application

17.—(1) Where an application for planning permission or a subsequent application has been made without an environmental statement and the applicant proposes to submit such a statement, the applicant must, before submitting it, comply with paragraphs (2) to (5).

(2) The applicant must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the applicant's name, that an application is being made for planning permission or subsequent consent and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it be the case, that it has been referred to the Welsh Ministers for determination or is the subject of an appeal to the Welsh Ministers;

(c) the address or location and the nature of the proposed development;

(d) that—

(i) a copy of the application, any accompanying plan and other documents, and a copy of the environmental statement, and

(ii) in the case of a subsequent application, a copy of the planning permission in respect of which that application has been made and supporting documents,

may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they are available for inspection (being a date not less than 21 days later than the date on which the notice is published);

(f) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the statement may be obtained;

(g) that copies may be obtained there so long as stocks last;

(h) if a charge is to be made for a copy, the amount of the charge;

(i) that any person wishing to make representations about the application should make them, before the date stated in accordance with sub-paragraph (e), to the relevant planning authority or (in the case of an application referred to the Welsh Ministers or an appeal) to the Welsh Ministers; and

(j) in the case of an application referred to the Welsh Ministers or an appeal, the address, including an electronic address, to which representations should be sent.

(3) An applicant who is notified under regulation 10(2), 11(4) or 12(5) of such a person as mentioned in any of those paragraphs must serve a notice on every such person; and the notice must contain the information specified in paragraph (2), except that the date stated as the latest date on which the documents are available for inspection must not be less than 21 days later than the date on which the notice is first served.

(4) The applicant must, where it has the right to, or can reasonably acquire the right to, post on the land a notice containing the information specified in paragraph (2), except that the date stated as the latest date on which the documents will be available for inspection must be not less than 21 days later than the date on which the notice is first posted.

(5) The notice mentioned in paragraph (4) must—

(a) be left in position for not less than 7 days in the 28 days immediately preceding the date of the submission of the statement; and

(b) be affixed firmly to some object on the land and sited and displayed in such a way as to be easily visible to, and readable by, members of the public without going on to the land.

(6) The statement, when submitted, must be accompanied by—

(a) a copy of the notice mentioned in paragraph (2) certified by or on behalf of the applicant as having been published in a named newspaper on a date specified in the certificate; and

(b) a certificate by or on behalf of the applicant which states either—

(i) that a notice was posted on the land in compliance with this regulation and when this was done, and that the notice was left in position for not less than 7 days in the 28 days immediately preceding the date of the submission of the statement, or that, without any fault or intention on the applicant's part, it was removed, obscured or defaced before 7 days had elapsed and the applicant took reasonable steps for its protection or replacement, specifying the steps taken; or

(ii) that the applicant was unable to comply with paragraphs (4) and (5) because the applicant did not have the necessary rights to do so; that any reasonable steps available to acquire those rights have been taken but unsuccessfully, specifying the steps taken.

(7) Where an applicant indicates that the applicant proposes to provide a statement in the circumstances mentioned in paragraph (1), the relevant planning authority, the Welsh Ministers or the inspector, as the case may be, must (unless disposed to refuse the permission or subsequent consent sought) suspend consideration of the application or appeal until receipt of the statement and the other documents mentioned in paragraph (6); and must not determine the application or appeal during the period of 21 days beginning with the date of receipt of the statement and the other documents so mentioned.

(8) If any person—

(a) issues a certificate which purports to comply with the requirements of paragraph (6)(b), or

(b) recklessly issues a certificate which purports to comply with those requirements

and which contains a statement which that person knows to be false or misleading in a material particular, that person is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Where it is proposed to submit an environmental statement in connection with an appeal, this regulation applies as if references to the applicant were references to the appellant.

Provision of copies of environmental statements and further information for the Welsh Ministers on referral or appeal

18. Where an applicant for planning permission or subsequent consent has submitted an environmental statement, or further information, to the relevant planning authority in connection with that application and—

(a) the application is referred to the Welsh Ministers under section 77 of the 1990 Act (reference of applications to Secretary of State); or

(b) the applicant appeals under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions),

the applicant must supply the Welsh Ministers with one copy of the statement and, where relevant, the further information unless, in the case of a referred application, the relevant planning authority have already done so.

Procedure where an environmental statement is submitted to the Welsh Ministers

19.—(1) This regulation applies where an applicant or appellant submits an environmental statement to the Welsh Ministers, in relation to an EIA application which is—

(a) before the Welsh Ministers or an inspector for determination; or

(b) the subject of an appeal to the Welsh Ministers.

(2) The applicant or appellant must submit two copies of the statement to the Welsh Ministers who must send one copy to the relevant planning authority.

(3) An applicant or appellant who submits an environmental statement to the Welsh Ministers may provide a copy of it to any other body, and if so must—

(a) comply with regulation 16(2)(a) and (b) as if the reference in regulation 16(2)(b) to the relevant planning authority were a reference to the Welsh Ministers; and

(b) inform the Welsh Ministers of the matters mentioned in regulation 16(2)(c).

(4) The Welsh Ministers must comply with regulation 16(3) (except sub-paragraph (a) of that regulation) and the applicant or appellant must comply with regulation 16(4) as if—

(a) references in those provisions to the relevant planning authority were references to the Welsh Ministers; and,

(b) in the case of an appeal, references to the applicant were references to the appellant,

and the Welsh Ministers or the inspector must comply with regulation 16(6) as if it referred to the Welsh Ministers or the inspector instead of the relevant planning authority.

Availability of copies of environmental statements

20. An applicant or appellant, who submits an environmental statement in connection with an application or appeal, must ensure that a reasonable number of copies of the statement are available at the address named in the notices published or posted pursuant to article 12 of the 2012 Order or regulation 17(2)(f) as the address at which such copies may be obtained.

Charges for copies of environmental statements

21. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of a statement made available in accordance with regulation 20.

Further information and evidence in respect of environmental statements

22.—(1) If a relevant planning authority, the Welsh Ministers or inspector dealing with an application or appeal in relation to which the applicant or appellant has submitted an environmental statement, are of the opinion that the statement should contain additional information in order to be an environmental statement, the relevant planning authority, the Welsh Ministers or inspector must notify the applicant or appellant accordingly and the applicant or appellant must provide that additional information; and such additional information is referred to in these Regulations as "further information" ("*gwybodaeth bellach*").

(2) Paragraphs (3) to (9) apply in relation to further information and any other information except in so far as—

(a) the further information and any other information is provided for the purposes of an inquiry or hearing held under the 1990 Act; and

(b) the request for the further information made pursuant to paragraph (1) stated that it was to be provided for such purposes.

(3) The recipient of further information or any other information must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the name of the applicant for planning permission or subsequent consent, or the appellant (as the case may be), and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it is the case, that it has been referred to the Welsh Ministers for determination or is the subject of an appeal to the Welsh Ministers;

(c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;

(d) the address or location and the nature of the proposed development;

(e) that further information or any other information is available in relation to an environmental statement which has already been provided;

(f) that a copy of the further information or any other information and of any environmental statement which relates to any planning permission or subsequent application may be inspected by members of the public at all reasonable hours;

(g) an address in the locality in which the land is situated at which the further information or any other information may be inspected and the latest date on which it will be available for inspection (being a date not less than 21 days later than the date on which the notice is published);

(h) an address in the locality in which the land is situated (whether or not the same as that given pursuant to sub-paragraph (g)) at which copies of the further information or any other information may be obtained;

(i) that copies may be obtained there so long as stocks last;

(j) if a charge is to be made for a copy, the amount of the charge;

(k) that any person wishing to make representations about the further information or any other information should make them, before the date stated in accordance with sub-paragraph (g), to the relevant planning authority, the Welsh Ministers or the inspector (as the case may be); and

(l) the address to which representations should be sent.

(4) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.

(5) Where the recipient of the further information or any other information is the relevant planning authority they must send to the Welsh Ministers one copy of the further information.

(6) The recipient of the further information may by notice require the applicant or appellant to provide such number of copies of the further information or any other information as is specified in the notice (being the number required for the purposes of paragraph (4) or (5)).

(7) Where information is requested under paragraph (1) or any other information is provided, the relevant planning authority, the Welsh Ministers or the inspector, as the case may be,—

(a) must suspend determination of the application or appeal; and

(b) must not determine it before—

(i) the expiry of 21 days after the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent, or

(ii) the expiry of 21 days after the date that notice of it was published in a local newspaper,

whichever is the later.

(8) The applicant or appellant who provides further information or any other information, in accordance with paragraph (1) must ensure that a reasonable number of copies of the information are available at the address named in the notice published pursuant to paragraph (3)(h) as the address at which such copies may be obtained.

(9) A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of the further information or any other information, made available in accordance with paragraph (8).

(10) The relevant planning authority or the Welsh Ministers or an inspector may require an applicant or appellant to produce such evidence as they may reasonably call for to verify any information in the environmental statement.