
WELSH STATUTORY INSTRUMENTS

2012 No. 801

The Town and Country Planning (Development Management Procedure) (Wales) Order 2012

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of this Order is the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 and it comes into force on 30 April 2012.

(2) This Order applies to all land in Wales, but where land is the subject of a special development order⁽¹⁾, whether made before or after the commencement of this Order, this Order will apply to that land only to such extent and subject to such modifications as may be specified in the special development order.

(3) Nothing in this Order applies to any permission which is deemed to be granted under section 222 of the 1990 Act (planning permission not needed for advertisements complying with regulations).

Interpretation

2.—(1) In this Order—

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990;

“the 2004 Act” (“*Deddf 2004*”) means the Planning and Compulsory Purchase Act 2004;

“access” (“*mynediad*”), in relation to reserved matters, means the accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network and “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

“appearance” (“*ymddangosiad*”) means the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

“building” (“*adeilad*”) includes any structure or erection, and any part of a building, as defined in this article, but does not include plant or machinery or any structure in the nature of plant or machinery;

“dwellinghouse” (“*tŷ annedd*”) does not include a building containing one or more flats, or a flat contained within such a building;

(1) “special development order” means an order made under section 59(3)(b) of the Town and Country Planning Act 1990 (c. 8).

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(2);

“EIA application” (“*cais AEA*”), “EIA development” (“*datblygiad AEA*”), “environmental information” (“*gwybodaeth amgylcheddol*”) and “environmental statement” (“*datganiad amgylcheddol*”) have the same meanings respectively given in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(3);

“erection” (“*codi*”), in relation to buildings as defined in this article, includes extension, alteration or re-erection;

“flat” (“*fflat*”) means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“floor space” (“*arwynebedd llawr*”) means the total floor space in a building or buildings;

“landscaping” (“*tirlunio*”), in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

“layout” (“*llunwedd*”) means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

“major development” (“*datblygiad mawr*”) means development(4) involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits(5);
- (b) waste development;
- (c) the provision of dwellinghouses where—
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

“mining operations” (“*gweithrediadau mwyngloddio*”) means the winning and working of minerals in, on or under land, whether by surface or underground working;

(2) 2000 c. 7; section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(3) S.I. 1999/293, amended by S.I. 2006/3099; there are other amending instruments but none are relevant.

(4) For the definition of “development” see section 55 of the Town and Country Planning Act (c.8).

(5) For the definition of “mineral-working deposit” see section 336 of the Town and Country Planning Act (c.8).

“outline planning permission” (“*caniatâd cynllunio amlinellol*”) means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters;

“reserved matters” (“*materion a gedwir yn ôl*”, “*materion a gadwyd yn ôl*”) in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application—

- (a) access;
- (b) appearance;
- (c) landscaping;
- (d) layout; and
- (e) scale, within the upper and lower limit for the height, width and length of each building stated in the application for planning permission in accordance with article 3(4);

“scale” (“*graddfa*”) means the height, width and length of each building proposed within the development in relation to its surroundings;

“by site display” (“*drwy arddangos ar y safle*”) means by the posting of the notice by firm affixture to some object, sited and displayed in such a way as to be easily visible and legible by members of the public; and

“waste development” (“*datblygiad gwastraff*”) means (a) any operational development designed to be used wholly or mainly for the purpose of treating, storing, processing or disposing of refuse or waste materials or (b) material change of use to the treatment, storage, processing or disposal of refuse or waste materials.

(2) In this Order and in relation to the use of electronic communications or electronic storage for any purpose of this Order which is capable of being carried out electronically—

- (a) the expression “address” (“*cyfeiriad*”) includes any number or address used for the purpose of such communications or storage, except that where this Order imposes any obligation on any person to provide a name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address; and
- (b) references to documents, maps, plans, drawings, certificates or other documents, or to copies of such things, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the following purposes—

- (a) fulfilling any requirement in this Order to give or send any application, notice or other document to any other person; or
- (b) lodging an application, certificate or other document referred to in article 22(3) with a local planning authority,

and in those paragraphs, “the recipient” (“*y derbynnnydd*”) means the person mentioned in subparagraph (a) of this paragraph or the local planning authority, as the case may be.

(4) The requirement is not taken to be fulfilled, or (as the case may be) the application or other document is not taken to have been lodged, unless the document transmitted by the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” (“*darllenadwy ym mhob modd perthnasol*”) means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next working day; and for this purpose “working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in this Order that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (4), and “written” (“*ysgrifenedig*”) and cognate expressions are to be construed accordingly.

PART 2

Applications

Applications for outline planning permission

3.—(1) Where an application is made to the local planning authority for outline planning permission, the authority may grant permission subject to a condition specifying reserved matters for the authority’s subsequent approval.

(2) Where the local planning authority who are to determine an application for outline planning permission are of the opinion that, in the circumstances of the case, the application ought not to be considered separately from all or any of the reserved matters, they must within the period of one month beginning with the receipt of the application notify the applicant that they are unable to determine it unless further details are submitted, specifying the further details they require.

(3) Where layout is a reserved matter, the application for outline planning permission must state the approximate location of buildings, routes and open spaces included in the development proposed.

(4) Where scale is a reserved matter, the application for outline planning permission must state the upper and lower limit for the height, width and length of each building included in the development proposed.

(5) Where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.

Applications for approval of reserved matters

4.—(1) An application for approval of reserved matters must—

- (a) be made in writing to the local planning authority on a form published by the Welsh Ministers (or a form substantially to the like effect);
- (b) include the particulars specified or referred to in the form;
- (c) be accompanied by such plans and drawings as are necessary to deal with the matters reserved in the outline planning permission;
- (d) except where the application is made by electronic communications or the local planning authority indicate that fewer are required, be accompanied by 3 copies of the form; and
- (e) except where they are submitted by electronic communications or the local planning authority indicate that fewer are required, be accompanied by 3 copies of any plans, drawings and information accompanying the application.

(2) Any plans or drawings required to be provided by paragraph (1)(c) must be drawn to an identified scale and, in the case of plans, must show the direction of north.

(3) Where an application is made using electronic communications the provisions of article 32 apply.

Applications for planning permission

5.—(1) Subject to the following provisions of this article, an application for planning permission must—

- (a) be made in writing to the local planning authority on a form published by the Welsh Ministers (or a form substantially to the like effect);
- (b) include the particulars specified or referred to in the form;
- (c) except where the application is made pursuant to section 73 (determination of applications to develop land without compliance with conditions previously attached) or section 73A(2) (c) (planning permission for development already carried out) of the 1990 Act⁽⁶⁾, be accompanied, whether electronically or otherwise, by—
 - (i) a plan which identifies the land to which the application relates;
 - (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application;
 - (iii) except where the application is made by electronic communications or the local planning authority indicate that fewer are required, 3 copies of the form; and
 - (iv) except where they are submitted by electronic communications or the local planning authority indicate that fewer are required, 3 copies of any plans, drawings and information accompanying the application.

(2) Any plans or drawings required to be provided by paragraph (1)(c)(i) or (ii) must be drawn to an identified scale and, in the case of plans, must show the direction of north.

(3) Subject to paragraphs (3) to (5) of article 3, in the case of an application for outline planning permission, details need not be given of any reserved matters.

(4) An application for planning permission for development consisting of mining operations or the use of land for mineral-working deposits must—

- (a) be made on a form provided by the local planning authority;
- (b) include the particulars specified or referred to in the form; and
- (c) comply with the requirements of paragraph (1)(c).

(5) Where an application is made using electronic communications the provisions of article 32 apply.

Applications in respect of Crown land

6. An application for planning permission in respect of Crown land must be accompanied by—

- (a) a statement that the application is made in respect of Crown land; and
- (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.

Design and access statements

7.—(1) This article applies to an application for planning permission which is not an application for planning permission for—

⁽⁶⁾ Section 73 was amended by sections 42(2), 51(3) and 120 of, and Schedule 9 to, the 2004 Act. Section 73A was inserted by section 32 of, and paragraph 16 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

- (a) engineering or mining operations;
 - (b) development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such; or
 - (c) a material change in the use of land or buildings, provided that if the new use will necessitate access by an employee or involves the provision of services to the public or to a section of the public, with or without payment, then this article applies to the application as if—
 - (i) in paragraph (3), for “a design and access statement” there were substituted “an access statement”;
 - (ii) in paragraph (5), for “A design and access statement must, in relation to access,” there were substituted “An access statement must”; and
 - (iii) paragraphs 3(a), (4) and (6) were omitted.
- (2) For the purposes of paragraph (1)(c) “the provision of services” (“*darparu gwasanaethau*”) includes the provision of any goods or facilities.
- (3) An application for planning permission to which this article applies must be accompanied by a statement (“a design and access statement”) (“*datganiad dylunio a mynediad*”) explaining—
- (a) the design principles and concepts that have been applied to the development; and
 - (b) how issues relating to access to the development have been dealt with.
- (4) A design and access statement must, in relation to design—
- (a) explain the design principles and concepts that have been applied to the following aspects of the development—
 - (i) environmental sustainability;
 - (ii) movement to, from and within the development;
 - (iii) character; and
 - (iv) community safety; and
 - (b) demonstrate the steps taken to appraise the context of the development and how the design of the development takes that context into account in relation to its proposed use and each of the aspects specified in sub-paragraph (a).
- (5) A design and access statement must, in relation to access, explain—
- (a) the policy or approach adopted as to access and how policies relating to access in the development plan⁽⁷⁾ have been taken into account;
 - (b) how any specific issues which might affect access to the development have been addressed; and
 - (c) how features which ensure access to the development are to be maintained.
- (6) In this article—
- “amount” (“*maint*”) means—
- (a) in relation to residential development, the number of proposed units for residential use; and
 - (b) in relation to all other forms of development, the proposed floor space for each proposed use forming part of the development;

(7) See sections 38 and 62 of the 2004 Act; the transitional provisions in article 3 of the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005 (S.I. 2005/2847) and the transitional provisions of Part III of Schedule 5 to, the Local Government (Wales) Act 1994 (c. 19).

“character” (“*cymeriad*”) includes any landscaping comprised in the development and the amount, layout, scale and appearance of the development; and

“context” (“*cyd-destun*”) means the physical, social, economic and policy context of the development.

General provisions relating to applications

8.—(1) When the local planning authority receive—

- (a) an application which complies with the requirements of article 4 or article 5, as the case may be;
- (b) where an application is made in respect of Crown land, the documents required by article 6;
- (c) in a case to which article 7 applies, the design and access statement or the access statement as the case may be;
- (d) in a case to which article 9 applies, the written declaration required by that article;
- (e) the certificate required by article 11;
- (f) subject to paragraph (2), the particulars or evidence required by the authority under section 62(3) of the 1990 Act (applications for planning permission)⁽⁸⁾; and
- (g) any fee required to be paid in respect of the application,

the authority must, as soon as is reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.

(2) Paragraph (1)(f) only applies if—

- (a) the application is for major development; and
- (b) before the application is made the local planning authority publish a list of requirements on their website for the purposes of article 22(3); and
- (c) the particulars or evidence that the authority require to be included in the application fall within that list.

(3) Where, after sending an acknowledgement as required by paragraph (1), the local planning authority consider that the application is invalid, they must as soon as reasonably practicable notify the applicant that the application is invalid.

(4) In this article an application is invalid if it is not a valid application within the meaning of article 22(3).

Declaration to accompany applications to a local planning authority for planning permission for certain electronic communications development

9.—(1) This article applies to any application for planning permission for development which involves the construction or installation of one or more antennae for the purpose of operating an electronic communications network.

(2) For the purposes of this article “electronic communications network” (“*rhwydwaith cyfathrebiadau electronig*”) has the meaning assigned to that term by section 32(1) of the Communications Act 2003 (meaning of electronic communication networks and services)⁽⁹⁾.

(3) An application to which this article applies must be accompanied by a written declaration that the equipment and installation to which the application relates is so designed that it will, when constructed or installed, operate, having regard to its location and the manner in which it has been constructed or installed, in full compliance with the requirements of the radio frequency

⁽⁸⁾ Section 62 was substituted by section 42(1) of the 2004 Act.

⁽⁹⁾ 2003 c. 21.

public exposure guidelines of the International Commission on Non-ionising Radiation Protection, as expressed in EU Council recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)(10).

Notices of applications for planning permission

10.—(1) Subject to paragraph (2), an applicant for planning permission must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of any of the land to which the application relates, or a tenant—

- (a) by serving the notice on every such person whose name and address is known to the applicant; and
- (b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated.

(2) In the case of an application for planning permission for development consisting of the winning and working of minerals by underground operations, instead of giving notice in the manner provided for by paragraph (1), the applicant must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of any of the land to which the application relates, or a tenant,—

- (a) by serving the notice on every such person whom the applicant knows to be such a person and whose name and address is known to the applicant;
- (b) by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated; and
- (c) by site display in at least one place in every community within which there is situated any part of the land to which the application relates, leaving the notice in position for not less than 7 days in the period of 21 days immediately preceding the making of the application to the local planning authority.

(3) The notice required by paragraph (2)(c) must (in addition to any other matters required to be contained in it) name a place within the area of the local planning authority to whom the application is made where a copy of the application for planning permission, and of all plans and other documents submitted with it, will be open to inspection by the public at all reasonable hours during such period as may be specified in the notice.

(4) Where a local planning authority maintain a website for the purpose of advertisement of applications for planning permission, the notice required by paragraph (2)(c) must (in addition to any other matters required to be contained in it) state the address of the website where a copy of the application, and of all plans and other documents submitted with it, will be published.

(5) Where the notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 7 days referred to in paragraph (2)(c) has elapsed, the applicant will be treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps to protect the notice and, if need be, replace it.

(6) The date prescribed for the purposes of section 65(2) of the 1990 Act (notice etc of applications for planning permission)(11), and the “prescribed date” (“*dyddiad rhagnodedig*”) for the purposes of this article, is the day 21 days before the date of the application.

(10) OJ L No. 199/59, 30.7.1999.

(11) Section 65 was substituted by section 16(1) of the Planning and Compensation Act 1991 (c. 34) and amended by section 40 of, and paragraph 35 of the Schedule to, the Agricultural Tenancies Act 1995 (c. 8).

(7) The applications prescribed for the purposes of paragraph (c) of the definition of “owner” in section 65(8) of the 1990 Act are minerals applications, and the minerals prescribed for the purposes of that paragraph are any minerals other than oil, gas, coal, gold or silver.

(8) In this article—

“minerals applications” (“*ceisiadau mwynau*”) means applications for planning permission for development consisting of the winning and working of minerals;

“requisite notice” (“*hysbysiad gofynnol*”) means notice in the appropriate form set out in Schedule 2 or in a form substantially to the like effect, but will not include notice served using electronic communications; and

“tenant” (“*tenant*”) means an agricultural tenant as defined in section 65(8) of the 1990 Act, of land any part of which is comprised in the land to which an application relates.

Certificates in relation to notices of applications for planning permission

11.—(1) Where an application for planning permission is made, the applicant must certify, in a form published by the Welsh Ministers or in a form substantially to the like effect, that the requirements of article 10 have been satisfied.

(2) If an applicant has cause to rely on paragraph (5) of article 10, the certificate must state the relevant circumstances.

Publicity for applications for planning permission

12.—(1) An application for planning permission must be publicised by the local planning authority to which the application is made, in the manner prescribed by this article.

(2) In the case of an application for planning permission for development which—

- (a) is an EIA application accompanied by an environmental statement;
- (b) does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated; or
- (c) would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way)(**12**) applies,

the application must be publicised in the manner specified in paragraph (3).

(3) An application falling within paragraph (2) (“a paragraph (2) application”) must be publicised by giving requisite notice—

- (a) by site display in at least one place on or near the land to which the application relates, for not less than 21 days; and
- (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.

(4) In the case of an application for planning permission which is not a paragraph (2) application, if the development proposed is major development the application must be publicised by giving requisite notice—

- (a) (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or
 - (ii) by serving the notice on any adjoining owner or occupier; and
- (b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.

(12) 1981 c. 69; see section 66. There are amendments to Part 3 which are not relevant to this Order.

(5) In a case to which neither paragraph (2) nor paragraph (4) applies, the application must be publicised by giving requisite notice—

- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or
- (b) by serving the notice on any adjoining owner or occupier.

(6) Where the notice is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period of 21 days referred to in paragraph (3)(a), (4)(a)(i) or (5)(a) has elapsed, the authority will be treated as having complied with the requirements of the relevant paragraph if they have taken reasonable steps to protect the notice and, if need be, replace it.

(7) Where the local planning authority maintain a website for the purpose of publicising applications for planning permission the following information must be published on the website—

- (a) the address or location of the proposed development;
- (b) a description of the proposed development;
- (c) the date by which any representations about the application must be made, which must not be before the last day of the period of 14 days beginning with the date on which the information is published;
- (d) where and when the application may be inspected; and
- (e) how representations may be made about the application.

(8) If the local planning authority have failed to satisfy the requirements of this article in respect of an application for planning permission at the time the application is referred to the Welsh Ministers under section 77 of the 1990 Act (reference of applications to Secretary of State)(**13**) or any appeal to the Welsh Ministers is made under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(**14**), this article will continue to apply as if such referral or appeal to the Welsh Ministers had not been made.

(9) Where paragraph (8) applies, when the local planning authority have satisfied the requirements of this article, they must inform the Welsh Ministers that they have done so.

(10) In this article—

“adjoining owner or occupier” (“*perchennog neu feddiannydd cyffiniol*”) means any owner or occupier of any land adjoining the land to which the application relates; and

“requisite notice” (“*hysbysiad gofynnol*”) means notice in the appropriate form set out in Schedule 3 or in a form substantially to the like effect.

(11) Paragraphs (1) to (6) apply to applications made to the Welsh Ministers under section 293A of the 1990 Act (urgent Crown development: application)(**15**) as if the references to a local planning authority were references to the Welsh Ministers.

Notice of reference of applications to the Welsh Ministers

13. On referring any application to the Welsh Ministers under section 77 of the 1990 Act (reference of applications to Secretary of State) pursuant to a direction in that behalf, a local planning authority must serve on the applicant a notice—

- (a) setting out the terms of the direction and any reasons given by the Welsh Ministers for issuing it;

(13) Section 77 was amended by section 32 of, and paragraph 18 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34), and section 40(2)(d) of the 2004 Act.

(14) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34) and sections 40(2)(e) and 43(2) of the 2004 Act.

(15) Section 293A was inserted by section 82(1) of the 2004 Act.

- (b) stating that the application has been referred to the Welsh Ministers; and
- (c) containing a statement that the Welsh Ministers will, if the applicant so wishes, afford to the applicant an opportunity of appearing before and being heard by a person appointed by the Welsh Ministers for the purpose, and that the decision of the Welsh Ministers on the application will be final.

PART 3

Consultation

Consultations before the grant of permission

14.—(1) Before granting planning permission for development which, in their opinion, falls within a category set out in the Table in Schedule 4, a local planning authority must consult the authority, body or person mentioned in relation to that category, except where—

- (a) the local planning authority are the authority, body or person so mentioned; or
- (b) the authority, body or person so mentioned has advised the local planning authority that they do not wish to be consulted.

(2) The exception in paragraph (1)(b) does not apply where, in the opinion of the local planning authority, development falls within paragraph (x) of the Table in Schedule 4.

(3) The Welsh Ministers may give directions to a local planning authority requiring that authority to consult any person or body named in the directions, in any case or class of case specified in the directions.

(4) Where, by or under this article, a local planning authority are required to consult any person or body (“the consultee”) before granting planning permission—

- (a) they must, unless an applicant has served a copy of an application for planning permission on the consultee, give notice of the application to the consultee; and
- (b) they must not determine the application until at least 14 days after the date on which notice is given under sub-paragraph (a) or, if earlier, 14 days after the date of service of a copy of the application on the consultee by the applicant.

(5) The local planning authority must in determining the application take into account any representations received from a consultee.

Consultations before the grant of planning permission: urgent Crown development

15.—(1) This article applies in relation to applications made to the Welsh Ministers under section 293A of the 1990 Act (urgent Crown development: application).

(2) Before granting planning permission for development which in the opinion of the Welsh Ministers, falls within a category set out in the Table in Schedule 4, the Welsh Ministers must consult the authority, body or person mentioned in relation to that category, except where—

- (a) the Welsh Ministers are required to consult the authority so mentioned under section 293A(9)(a) of the 1990 Act;
- (b) the authority, body or person so mentioned has advised the Welsh Ministers that they do not wish to be consulted; or
- (c) the development is subject to any standing advice provided by the authority, body or person so mentioned to the Welsh Ministers in relation to the category of development.

(3) The exception in paragraph (2)(b) does not apply where in the opinion of the Welsh Ministers, development falls within paragraph (x) of the Table in Schedule 4.

(4) The exception in paragraph (2)(c) does not apply where—

- (a) the development is an EIA development; or
- (b) the standing advice was issued more than 2 years before the date of the application for planning permission for the development and the guidance has not been amended or confirmed as being extant by the authority, body or person within that period.

(5) Where, by or under this article, the Welsh Ministers are required to consult any person or body (“the consultee”) before granting planning permission—

- (a) the Welsh Ministers must, unless an applicant has served a copy of an application for planning permission on the consultee, give notice of the application to the consultee; and
- (b) the Welsh Ministers must not determine the application until at least 14 days after the date on which notice is given under sub-paragraph (a) or, if earlier, 14 days after the date of service of a copy of the application on the consultee by the applicant.

(6) The Welsh Ministers must in determining the application, take into account any representations received from a consultee.

Representations by community councils before determination of applications

16.—(1) Where the council of a community are given information in relation to an application pursuant to paragraph 2(1) of Schedule 1A to the 1990 Act (distribution of local planning authority functions: Wales)(**16**), they must, as soon as practicable, notify the local planning authority who are determining the application whether they propose to make any representations about the manner in which the application should be determined, and must make any representations to that authority within 14 days of the notification to them of the application.

(2) A local planning authority must not determine any application in respect of which a community are required to be given information before—

- (a) the council of the community inform them that they do not propose to make any representations;
- (b) representations are made by that council; or
- (c) the period of 14 days mentioned in paragraph (1) has elapsed,

whichever occurs first; and in determining the application the authority must take into account any representations received from the council of the community.

(3) The local planning authority must notify the council of the community of the terms of the decision on any such application or, where the application is referred to the Welsh Ministers, of the date when it was so referred and, when notified to them, of the terms of the Welsh Ministers' decision.

Notification of mineral applications

17.—(1) Where notice has been given for the purposes of this article to a local planning authority as respects land which is in their area and specified in the notice—

- (a) by the Coal Authority that the land contains coal;
- (b) by the Secretary of State for Energy and Climate Change that it contains gas or oil; or
- (c) by the Crown Estates Commissioners that it contains silver or gold,

(16) 1990 c. 8. Schedule 1A was inserted by the Local Government (Wales) Act 1994 (c. 19).

the local planning authority must not determine any application for planning permission to win and work any mineral on that land, without first notifying the body or person who gave the notice that an application has been made.

- (2) In this article, “coal” (“*glo*”) means coal other than that—
- (a) won or worked during the course of operations which are carried on exclusively for the purpose of exploring for coal; or
 - (b) which it is necessary to dig or carry away in the course of activities carried on for purposes which do not include the getting of coal or any product of coal.

PART 4

Determination

Directions by the Welsh Ministers

18.—(1) The Welsh Ministers may give directions restricting the grant of permission by a local planning authority, either indefinitely or during such a period as may be specified in the directions, in respect of any development or in respect of development of any class so specified.

(2) The Welsh Ministers may give directions that development which is both of a description set out in Column 1 of the Table in Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”)(**17**) and of a class described in the direction is EIA development for the purposes of those Regulations.

(3) A local planning authority must deal with applications for planning permission for development to which a direction given under this article applies in such manner as to give effect to the direction.

Development affecting certain existing and proposed highways

19.—(1) Where an application is made to a local planning authority for planning permission for development which consists of or includes—

- (a) the formation, laying out or alteration of any access to or from any part of a trunk road which is either a special road or, if not a special road, a road subject to a speed limit exceeding 40 miles per hour; or
- (b) any development of land within 67 metres (or such other distance as may be specified in a direction given by the Welsh Ministers under this article) from the middle of—
 - (i) any highway (other than a trunk road) which the Welsh Ministers have provided, or are authorised to provide, in pursuance of an order under Part 2 of the Highways Act 1980 (trunk roads, classified roads, metropolitan roads, special roads)(**18**) and which has not for the time being been transferred to any other highway authority;
 - (ii) any highway which the Welsh Ministers propose to improve under Part 5 of that Act (improvement of highways) and in respect of which notice has been given to the authority;
 - (iii) any highway to which the Welsh Ministers propose to carry out improvements in pursuance of an order under Part 2 of that Act; or

(17) S.I. 1999/293, Column 1 of the Table in Schedule 2 was amended by S.I 2006/3099 and 2007/2610.

(18) 1980 c. 66.

- (iv) any highway which the Welsh Ministers propose to construct, the route of which is shown on the development plan or in respect of which the Welsh Ministers have given notice in writing to the relevant local planning authority together with maps or plans sufficient to identify the route of the highway,
- the authority must notify the Welsh Ministers by sending to the Welsh Ministers a copy of the application and any accompanying plans and drawings.
- (2) An application referred to in paragraph (1) must not be determined unless—
- (a) the local planning authority receive a direction given under article 18 (and the authority must then determine the application in accordance with the terms of that direction);
 - (b) the authority receive notification by or on behalf of the Welsh Ministers that the Welsh Ministers do not propose to give any such direction in respect of the development to which the application relates; or
 - (c) a period of 28 days (or such longer period as may be agreed in writing between the authority and the Welsh Ministers) from the date when notification was given to the Welsh Ministers has elapsed without receipt of such a direction.
- (3) The Welsh Ministers may, in respect of any case or any class or description of cases, give a direction specifying a different distance for the purposes of paragraph (1)(b).
- (4) In this article—
- “proposed highway” (“*priffordd arfaethedig*”) has the same meaning as in section 329 of the Highways Act 1980 (further provision as to interpretation)(**19**);
- “special road” (“*ffordd arbennig*”) means a highway or proposed highway which is a special road in accordance with section 16 of the Highways Act 1980 (general provision as to special roads)(**20**); and
- “trunk road” (“*cefnffordd*”) means a highway or proposed highway which is a trunk road by virtue of sections 10(1) (general provision as to trunk roads) or 19 (certain special roads and other highways to become trunk roads) of the Highways Act 1980(**21**) or by virtue of an order or direction under section 10, or any other enactment or any instrument made under any enactment.

Development not in accordance with the development plan

20. A local planning authority may in such cases and subject to such conditions as may be prescribed by directions given by the Welsh Ministers under this Order grant permission for development which does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated.

Representations to be taken into account

21.—(1) A local planning authority must, in determining an application for planning permission, take into account any representations made, where any notice of or information about the application has been—

- (a) given by site display under article 10 or 12, within 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on—
 - (i) an owner of the land or a tenant under article 10; or

(19) 1980 c. 66.

(20) Section 16 was amended by section 36 of, and paragraphs 21 and 24 of Schedule 2 to, the Planning Act 2008 (c. 29).

(21) Section 19 was amended by section 21 of the New Roads and Street Works Act 1991 (c. 22).

- (ii) an adjoining owner or occupier under article 12, within 21 days beginning with the date when the notice was served on that person, provided that the representations are made by any person who they are satisfied is such an owner, tenant or occupier; or
- (c) published in a newspaper under article 10 or 12 or on a website under article 12, within the period of 14 days beginning with the date on which the notice or information was published,

and the representations and periods in this article are representations and periods prescribed for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70)(22).

(2) A local planning authority must give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (1)(b)(i), and such notice is notice prescribed for the purposes of section 71(2)(b) of the 1990 Act.

(3) Paragraphs (1) and (2) apply to applications referred to the Welsh Ministers under section 77 of the 1990 Act (reference of applications to Secretary of State)(23) and to applications made to the Welsh Ministers under section 293A(2) of the 1990 Act (urgent Crown development:application)(24) and paragraphs (1)(b) and (2) apply to appeals to the Welsh Ministers made under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(25), as if the reference to—

- (a) a local planning authority were to the Welsh Ministers; and
- (b) determining an application for planning permission were to determining such application or appeal, as the case may be.

Time periods for decisions

22.—(1) Subject to paragraph (5), where a valid application has been received by a local planning authority, they must within the period specified or referred to in paragraph (2)(26) give the applicant notice of their decision or determination or give notice that the application has been referred to the Welsh Ministers.

- (2) The period specified or referred to in this paragraph is—
 - (a) the period of eight weeks beginning with the date on which the application was received by the local planning authority;
 - (b) except where the applicant has already given notice of appeal to the Welsh Ministers, such extended period as may be agreed in writing between the applicant and the authority; or
 - (c) where any fee required in respect of an application has been paid by a cheque which is subsequently dishonoured, the appropriate period specified in sub-paragraph (a) or (b) above calculated disregarding the period between the date when the authority sent the applicant written notice of the dishonouring of the cheque and the date when the authority are satisfied they have received the full amount of the fee.
- (3) In this article “valid application” (“*cais dilys*”) means an application which consists of—

(22) Section 71 was amended by section 16(2) of, and paragraph 15 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(23) Section 77 was amended by section 32 of, and paragraph 18 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34), and section 40(2)(d) of the 2004 Act.

(24) Section 293A was inserted by section 82(1) of the 2004 Act.

(25) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34) and sections 40(2)(e) and 43(2) of the 2004 Act.

(26) S.I. 1999/293 extends the time period for determination of applications for EIA development.

- (a) an application which complies with the requirements of article 4 or article 5, as the case may be;
- (b) where an application is made in respect of Crown land, the documents required by article 6;
- (c) in a case to which article 7 applies, the design and access statement or the access statement as the case may be;
- (d) in a case to which article 9 applies, the written declaration required by that article;
- (e) the certificate required by article 11;
- (f) subject to paragraph (4), the particulars or evidence required by the local planning authority under section 62(3) of the 1990 Act (applications for planning permission)**(27)**; and
- (g) any fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of the fee is to be taken as payment,

and a valid application must be taken to have been received when the application and such of the documents, particulars or evidence referred to above as are required to be included in or to accompany the application and any fee required have been lodged with the local planning authority.

(4) Paragraph (3)(f) only applies if—

- (a) the application is for major development;
- (b) before the application is made the local planning authority publish, for the purposes of paragraph (3), a list of requirements on their website; and
- (c) the particulars or evidence that the authority require to be included in the application fall within that list.

(5) A local planning authority must provide such information about applications made under article 4 or article 5 (including information as to the manner in which any such application has been dealt with) as the Welsh Ministers may by direction require. Any such direction may include provision as to the persons to be informed and the manner in which the information is to be provided.

(6) Subject to paragraph (7), a local planning authority must not determine an application for planning permission, where any notice of, or information about, the application has been—

- (a) given by site display under article 10 or 12, before the end of the period of 21 days beginning with the date when the notice was first displayed by site display;
- (b) served on—
 - (i) an owner of the land or a tenant under article 10, or
 - (ii) an adjoining owner or occupier under article 12,
 before the end of the period of 21 days beginning with the date when the notice was served on that person; or
- (c) published in a newspaper under article 10 or 12 or on a website under article 12, within the period of 14 days beginning with the date on which the notice or information was published,

and the periods in this paragraph are periods prescribed for the purposes of section 71(1) of the 1990 Act (consultations in connection with determinations under section 70)**(28)**.

(7) Where, under paragraph (6), more than one of the prescribed periods applies, the local planning authority must not determine the application before the end of the later or latest of such periods.

(27) Section 62 was substituted by section 42(1) of the 2004 Act.

(28) Section 71(1) was substituted by section 16(2) of the Planning and Compensation Act 1991 (c. 34).

Applications made under planning condition

23. Where an application has been made to a local planning authority for any consent, agreement or approval required by a condition or limitation attached to a grant of planning permission (other than an application for approval of reserved matters or an application for approval under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (development by electronic communications code operators)(**29**)), the authority must give notice to the applicant of their decision on the application within a period of 8 weeks beginning with the date on which the application was received by the authority, or such longer period as may be agreed by the applicant and the authority in writing.

Written notice of decision or determination relating to a planning application

24.—(1) When the local planning authority give notice of a decision or determination on an application for planning permission or for approval of reserved matters and a permission or approval is either granted subject to conditions or the application is refused, the notice must—

- (a) state clearly and precisely the full reasons for the refusal or for any condition imposed specifying all policies and proposals in the development plan which are relevant to the decision; and
 - (b) where the Welsh Ministers have given a direction restricting the grant of permission for the development for which application is made or where the Welsh Ministers or a United Kingdom Government Department have expressed the view that the permission should not be granted (either wholly or in part) or should be granted subject to conditions, give details of the direction or of the view expressed; and
 - (c) be accompanied by a notification in the terms (or substantially in the terms) set out in Schedule 5.
- (2) Where—
- (a) the applicant for planning permission has submitted an environmental statement; and
 - (b) the local planning authority have decided (having taken environmental information into consideration) to grant permission (whether unconditionally or subject to conditions),

the notice given to the applicant in accordance with article 22(1) must include a statement that environmental information has been taken into consideration by the authority.

PART 5

Appeals

Notice of appeal

25. Articles 10 and 11 apply to any appeal to the Welsh Ministers under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions) as they apply to applications for planning permission.

Appeals

26.—(1) An applicant who wishes to appeal to the Welsh Ministers under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions) must give notice of appeal to the Welsh Ministers by—

(29) [S.I. 1995/418](#). Part 24 of Schedule 2 was substituted by [S.I. 2002/1878 \(W.187\)](#).

- (a) serving on the Welsh Ministers, within the time limit specified in paragraph (2), a form obtained from the Welsh Ministers, together with such of the documents specified in paragraph (3) as are relevant to the appeal; and
 - (b) serving on the local planning authority a copy of the form mentioned in paragraph (a), as soon as reasonably practicable, together with a copy of any relevant documents mentioned in paragraph (3)(e).
- (2) The time limit mentioned in paragraph (1) is six months from—
- (a) the date of the notice of the decision or determination giving rise to the appeal;
 - (b) in a case where there has been no notice of decision or determination, the expiry of the period specified in article 22(2) or, as the case may be, article 23; or
 - (c) in a case in which the local planning authority have served a notice on the applicant in accordance with article 3(2) that they require further information and the applicant has not provided the information, the date of service of that notice,
- or such longer period as the Welsh Ministers may at any time allow.
- (3) The documents mentioned in paragraph (1) are—
- (a) the application made to the local planning authority which has occasioned the appeal;
 - (b) all plans, drawings and documents sent to the authority in connection with the application;
 - (c) all correspondence with the authority relating to the application;
 - (d) any certificate provided to the authority under article 11;
 - (e) any other plans, documents or drawings relating to the application which were not sent to the authority;
 - (f) the notice of the decision or determination, if any;
 - (g) if the appeal relates to an application for approval of certain matters in accordance with a condition on a planning permission, the application for that permission, the plans submitted with that application and the planning permission granted.
- (4) The Welsh Ministers may refuse to accept a notice of appeal from an applicant if the documents required under paragraphs (1) and (3) are not served on the Welsh Ministers within the time limit specified in paragraph (2).
- (5) The Welsh Ministers may provide, or arrange for the provision of, a website for use for such purposes as the Welsh Ministers think fit which—
- (a) relate to appeals under section 78 of the 1990 Act and this article, and
 - (b) are capable of being carried out electronically.
- (6) Where a person gives notice of appeal to the Welsh Ministers using electronic communications, the provisions of article 32 apply.

PART 6

Miscellaneous

Local development orders

27.—(1) Where a local planning authority propose to make a local development order the authority must first prepare—

- (a) a draft of the order; and
- (b) a statement of the authority's reasons for making the order.

- (2) The statement of reasons must contain—
- (a) a description of the development which the order would permit; and
 - (b) a plan or statement identifying the land to which the order would relate.
- (3) Where a local planning authority have prepared a draft local development order, the authority must consult, in accordance with paragraph (5), such of the following persons whose interests the authority considers would be affected by the order if made—
- (a) a local planning authority or community council any part of whose area is in or adjoins the authority's area;
 - (b) the Countryside Council for Wales⁽³⁰⁾;
 - (c) the Environment Agency⁽³¹⁾;
 - (d) the Welsh Ministers;
 - (e) any person—
 - (i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003 (application of the electronic communications code)⁽³²⁾; and
 - (ii) who owns or controls electronic communications apparatus situated in any part of the authority's area;
 - (f) any of the following persons who exercise functions in any part of the authority's area—
 - (i) a Local Health Board⁽³³⁾;
 - (ii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc)⁽³⁴⁾;
 - (iii) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters)⁽³⁵⁾;
 - (iv) a sewerage undertaker;
 - (v) a water undertaker;
 - (g) voluntary bodies some or all of whose activities benefit any part of the authority's area;
 - (h) bodies which represent the interests of different racial, ethnic or national groups in the authority's area;
 - (i) bodies which represent the interests of different religious groups in the authority's area;
 - (j) bodies which represent the interests of disabled persons in the authority's area;
 - (k) bodies which represent the interests of persons carrying on business in the authority's area.
- (4) The local planning authority must also consult any person with whom they would have been required to consult on an application for planning permission for the development proposed to be permitted by the order.
- (5) In consulting in accordance with paragraphs (3) and (4) the local planning authority must—
- (a) send a copy of the draft order and the statement of reasons to the consultees;

⁽³⁰⁾ See section 128(1) of the Environmental Protection Act 1990 (c. 43).

⁽³¹⁾ See section 1(1) of the Environment Act 1995 (c. 25).

⁽³²⁾ 2003 c. 21.

⁽³³⁾ See section 11 of the National Health Service (Wales) Act 2006 (c. 42).

⁽³⁴⁾ 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27), subsection (1)(b) was substituted by section 136(1) of the Energy Act 2004 (c. 20) and subsection (1)(c) was amended by section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004.

⁽³⁵⁾ 1986 c. 44; section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and subsection (2) was amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Part I of Schedule 6 to, the Utilities Act 2000.

- (b) specify a consultation period of not less than 28 days; and
 - (c) take account of all representations received by them during the period specified.
- (6) A local planning authority must, during any consultation under paragraphs (3) and (4)—
- (a) make a copy of the draft local development order and statement of reasons available for inspection—
 - (i) at their principal office during normal working hours; and
 - (ii) at such other places within their area as they consider appropriate;
 - (b) publish on their website—
 - (i) the draft local development order and the statement of reasons;
 - (ii) a statement that those documents are available for inspection and the places where and times when they can be inspected; and
 - (iii) the date by which representations on the draft local development order must be received, which must be not less than 28 days after the date of first publication on the website; and
 - (c) give notice by local advertisement of—
 - (i) the draft local development order and the statement of reasons;
 - (ii) the availability of those documents for inspection, and the places where and times when they can be inspected; and
 - (iii) the date by which representations on the draft local development order must be received, which must be not less than 28 days from the date on which the notice was first published.
- (7) Where the draft local development order would grant planning permission for development specified in the order, the local planning authority must also give notice of the proposal to make the order—
- (a) by displaying in at least one place on or near to the site to which the order relates a notice in the form set out in Schedule 6 or in a form substantially to the like effect, and, subject to paragraph (8), leaving the notice in position for a period of not less than 28 days beginning with the date on which it is first displayed; and
 - (b) by serving a copy of that notice on every person whom the authority know to be the owner or tenant of any part of the site whose name and address is known to the authority,
 - (c) and must specify in the notice a date by which representations on the draft local development order must be received, which must be not less than 28 days from the date on which the notice was displayed or served, as the case may be.
- (8) Where the notice referred to in paragraph (7)(a) is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period referred to in that paragraph has elapsed, the authority are to be treated as having complied with the requirements of that paragraph if the authority have taken reasonable steps to protect the notice, and, if necessary, replace it.
- (9) Where any notice of the proposal has been—
- (a) published on the local planning authority’s website or by local advertisement in accordance with paragraph (6);
 - (b) given by site display under paragraph (7)(a); or
 - (c) served on an owner of the land or a tenant under paragraph (7)(b),
- the authority must, in considering what modifications should be made to the draft local development order or whether such an order should be adopted, take into account any representations made in relation to that order and received by the authority by the date specified on the website or in

the notices, in accordance with paragraph (6) or (7) as the case may be, as the date by which representations should be made (or, if the dates on the website or in the notices differ from each other, the latest of such dates).

(10) A local planning authority must send a copy of a draft local development order and the statement of reasons relating to that order, including any modifications made to the order or statement, to the Welsh Ministers at any time after the authority have complied with the requirements of paragraph (9).

(11) Subject to paragraph (12), a local planning authority must not take any further steps in connection with the adoption of a local development order until either—

- (a) the Welsh Ministers have notified the authority in writing that the Welsh Ministers do not intend to make a direction under section 61B(1) of the 1990 Act (intervention by Welsh Ministers)(36); or
- (b) a period of 21 days has elapsed from the date on which the draft was sent to the Welsh Ministers and the Welsh Ministers have not notified the authority that the Welsh Ministers intend to make such a direction or require more time to reach a decision.

(12) If, within the period of 21 days referred to in paragraph (11)(b), the Welsh Ministers have notified the local planning authority that the Welsh Ministers require more time to reach a decision, the authority must not take any further steps in connection with the adoption of the order unless the Welsh Ministers notify the authority as referred to in paragraph (11)(a).

(13) A local development order must not be made so as to grant planning permission—

- (a) for development affecting a listed building; or
- (b) for development which is EIA development.

(14) Where a local planning authority revokes a local development order the authority must—

- (a) publish on their website a statement that the local development order has been revoked;
- (b) give notice of the revocation by local advertisement; and
- (c) give written notice of the revocation to every person whom the authority consulted under paragraphs (3) or (4) before the making of the order.

(15) In this article—

- (a) a requirement to give notice by local advertisement is a requirement to publish the notice in as many newspapers as necessary to secure that the press coverage (taken as a whole) extends to the whole of the area to which the local development order relates; and
- (b) “listed building” (“*adeilad rhestredig*”) has the meaning given in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listing of buildings of special architectural or historic interest)(37).

Certificate of lawful use or development

28.—(1) An application for a certificate under section 191(1) or 192(1) of the 1990 Act (certificates of lawfulness of existing or proposed use or development)(38) must be made on a form published by the Welsh Ministers (or a form substantially to the like effect) and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the particulars specified or referred to in the form.

(2) An application to which paragraph (1) applies must be accompanied by—

(36) Section 61B was inserted by section 40(1) of the 2004 Act.

(37) 1990 c. 9.

(38) Sections 191 and 192 were substituted by the Planning and Compensation Act 1991 (c. 34) section 10(1).

- (a) a plan identifying the land to which the application relates drawn to an identified scale and showing the direction of north;
 - (b) such evidence verifying the information included in the application as the applicant can provide; and
 - (c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.
- (3) Where an application for a certificate under section 192(1) of the 1990 Act is made in respect of Crown land, it must, in addition to the documents required by paragraph (2), be accompanied by—
- (a) a statement that the application is made in respect of Crown land; and
 - (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.
- (4) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application must indicate to which part of the land each such use, operation or matter relates.
- (5) Where an application is made using electronic communications the provisions of article 32 apply.
- (6) Articles 8(1) and 22(5) apply to an application for a certificate to which paragraph (1) applies as they apply to an application for planning permission.
- (7) When the local planning authority receive an application which complies with the requirements of paragraphs (1) to (4) and any fee required to be paid with respect to the application is lodged, they must, as soon as reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.
- (8) Where, after sending an acknowledgement as required by paragraph (7), the local planning authority consider that the application is invalid they must, as soon as reasonably practicable, notify the applicant that the application is invalid.
- (9) The local planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.
- (10) Where a valid application has been received, the local planning authority must give the applicant written notice of their decision within—
- (a) the period of eight weeks beginning with the day the application is received by the authority; or
 - (b) unless the applicant has already given notice of appeal to the Welsh Ministers within such extended period as may be agreed in writing between the applicant and the authority.
- (11) For the purpose of calculating the appropriate period specified in paragraph (10) where any fee required has been paid by a cheque which is subsequently dishonoured, the period between the date when the local planning authority send the applicant written notice of the dishonouring of the cheque and the date when the authority are satisfied that they have received the full amount of the fee must be disregarded.
- (12) In this article, “valid application” (“*cais dilys*”) means an application which—
- (a) complies with the requirements of paragraphs (1) to (4); and
 - (b) is accompanied by the fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of the fee is to be taken as payment,
- and a valid application must be taken to have been received when the application and all of the documents, particulars or evidence referred to in paragraphs (1) to (4) and any fee required have been lodged with the local planning authority.

(13) Where an application is refused, in whole or in part (including a case in which the local planning authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision must state clearly and precisely the authority's full reasons for their decision and must include a statement to the effect that if the applicant is aggrieved by the decision the applicant may appeal to the Welsh Ministers under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application)(39).

(14) A certificate under section 191 or 192 of the 1990 Act must be in the form set out in Schedule 7, or in a form substantially to the like effect.

(15) Where a local planning authority propose to revoke a certificate issued under section 191 or 192 of the 1990 Act in accordance with section 193(7) of the 1990 Act (certificates under sections 191 and 192: supplementary provisions)(40), they must, before they revoke the certificate, give notice of that proposal to—

- (a) the owner of the land affected;
- (b) the occupier of the land affected;
- (c) any other person who will in their opinion be affected by the revocation; and
- (d) in the case of a certificate issued by the Welsh Ministers under section 195 of the 1990 Act, the Welsh Ministers.

(16) A notice issued under paragraph (15) must invite the person on whom the notice is served to make representations on the proposal to the local planning authority within 14 days of service of the notice and the authority must not revoke the certificate until all such periods allowed for making representations have expired.

(17) A local planning authority must give written notice of any revocation under section 193(7) of the 1990 Act to every person on whom notice of the proposed revocation was served under paragraph (15).

PART 7

Monitoring

Register of applications and local development orders

29.—(1) Each local planning authority must keep a register in three Parts of every application for planning permission and every local development order (if any) relating to their area.

(2) The first part ("Part 1") of the register must contain in respect of every application for planning permission and any application for approval of reserved matters made in respect of an outline planning permission granted on such an application, made or sent to the local planning authority and not finally disposed of—

- (a) a copy (which may be photographic or in electronic form) of the application together with any accompanying plans and drawings;
- (b) a copy (which may be photographic or in electronic form) of any planning obligation or section 278 agreement proposed or entered into in connection with the application;
- (c) a copy (which may be photographic or in electronic form) of any other planning obligation or section 278 agreement entered into in respect of the land the subject of the application which the applicant considers relevant; and

(39) Section 195 was amended by section 32 of, and paragraph 32 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 197 of, and paragraphs 1 and 3 to Schedule 11 to, the Planning Act 2008 (c. 29).

(40) Section 193 was substituted by section 10(1) of the Planning and Compensation Act 1991.

- (d) particulars of any modification to any planning obligation or section 278 agreement included in Part 1 in accordance with sub-paragraphs (b) and (c) above.
- (3) The second part (“Part 2”) of the register must contain, in respect of every application for planning permission relating to the local planning authority’s area—
- (a) a copy (which may be photographic or in electronic form) of the application and of plans and drawings submitted in relation thereto and of any accompanying design and access statement provided in accordance with article 7;
 - (b) particulars of any direction given under the 1990 Act or this Order in respect of the application;
 - (c) the decision, if any, of the authority in respect of the application, including details of any conditions subject to which permission was granted, the date of such decision and the name of the authority;
 - (d) the reference number, the date and effect of any decision of the Welsh Ministers in respect of the application, whether on appeal, on an application under section 293A(2) of the 1990 Act (urgent Crown development: application)(41) or on a reference under section 77 of the 1990 Act (reference of applications to Secretary of State)(42);
 - (e) the date of any subsequent approval (whether approval of reserved matters or any other approval required) given in relation to the application;
 - (f) a copy (which may be photographic or in electronic form) of any planning obligation or section 278 agreement entered into in connection with any decision of the authority or the Welsh Ministers in respect of the application;
 - (g) a copy (which may be photographic or in electronic form) of any other planning obligation or section 278 agreement taken into account by the authority or the Welsh Ministers when making the decision; and
 - (h) particulars of any modification to or discharge of any planning obligation or section 278 agreement included in Part 2 in accordance with sub-paragraphs (f) or (g) or paragraph (4).
- (4) Where, on any appeal to the Welsh Ministers under section 174 of the 1990 Act (appeal against enforcement notice)(43), the appellant is deemed to have made an application for planning permission and the Welsh Ministers have granted permission, the local planning authority must, on receipt of notification of the Welsh Ministers' decision, enter into Part 2 particulars of the development concerned, the land on which it was carried out, and the date and effect of the Welsh Ministers' decision together with a copy (which may be photographic or in electronic form) of—
- (a) any planning obligation or section 278 agreement entered into in connection with the decision; and
 - (b) any other planning obligation or section 278 agreement taken into account by the Welsh Ministers when making the decision.
- (5) The third part of the register must consist of two sections—
- (a) the first section must contain copies of draft local development orders which have been prepared but not adopted by the local planning authority; and
 - (b) the second section must contain—
 - (i) copies of local development orders which have been adopted by the authority;
 - (ii) particulars of the revocation of any local development order made by the authority, including the date on which the revocation took effect; and

(41) Section 293A was inserted by section 82(1) of the 2004 Act.

(42) Section 77 was amended by section 32 of, and paragraph 18 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34), and section 40(2)(d) of the 2004 Act.

(43) Section 174 was amended by section 6 of the the Planning and Compensation Act 1991 (c. 34) and S.I. 2004/3156 (W.273).

(iii) particulars of the revision of any local development order, including the date on which the revision took effect.

(6) A copy of each draft local development order must be placed on the register when the draft is sent for consultation in accordance with article 27.

(7) A copy of each local development order must be placed on the register within 14 days of the date of its adoption.

(8) A requirement to place a copy of a draft local development order or adopted local development order on the register includes a requirement to place on the register the statement of reasons for making that order.

(9) The register must also contain the following information in respect of every application for a certificate under section 191 or 192 of the 1990 Act (certificates of lawfulness of existing or proposed use or development) relating to the local planning authority's area—

- (a) the name and address of the applicant;
- (b) the date of the application;
- (c) the address or location of the land to which the application relates;
- (d) the description of the use, operations or other matter included in the application;
- (e) the decision, if any, of the local planning authority in respect of the application and the date of such decision; and
- (f) the reference number, date and effect of any decision of the Welsh Ministers on an appeal in respect of the application.

(10) The register must contain the following information about simplified planning zone schemes in the area of the local planning authority—

- (a) brief particulars of any action taken by the authority or the Welsh Ministers in accordance with section 83 of, or Schedule 7 to, the 1990 Act (making of simplified planning zone schemes etc)⁽⁴⁴⁾ to establish or approve any simplified planning zone scheme, including the date of adoption or approval, the date on which the scheme or alteration becomes operative and the date on which it ceases to be operative;
- (b) a copy of any simplified planning zone scheme, or alteration to an existing scheme, including any diagrams, illustrations, descriptive matter or any other prescribed material which has been made available for inspection under Schedule 7 to the 1990 Act; and
- (c) an index map showing the boundary of any operative or proposed simplified planning zone schemes, including alterations to existing schemes where appropriate, together with a reference to the entries in the register under sub-paragraphs (a) and (b).

(11) To enable any person to trace any entry in the register, every register must include an index together with a separate index of applications for development involving mining operations or the creation of mineral working deposits.

(12) Subject to paragraph (13), every entry in the register must be made within 14 days of the receipt of an application, or of the giving or making of the relevant direction, decision or approval as the case may be.

(13) A copy of any application made under section 293A(2) of the 1990 Act (urgent Crown development: application) and of any plans and drawings submitted in relation to it must be placed on the register within 14 days of the date on which the local planning authority is consulted on the application by the Welsh Ministers.

⁽⁴⁴⁾ There are amendments to section 83 and Schedule 7 not relevant to this Order.

(14) The whole of the register must be kept at the principal office of the local planning authority or that part of the register which relates to land in part of that authority's area must be kept at a place within or convenient to that part.

(15) For the purposes of paragraph (2), an application must not be treated as finally disposed of unless—

- (a) it has been decided by the local planning authority (or the appropriate period allowed under article 22 has expired without their giving a decision) and the period of six months specified in article 26(2) has expired without any appeal having been made to the Welsh Ministers;
- (b) if it has been referred to the Welsh Ministers under section 77 the 1990 Act (reference of applications to Secretary of State) or an appeal has been made to the Welsh Ministers under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)(45), the Welsh Ministers have issued a decision and the period of six weeks specified in section 288 of the 1990 Act (proceedings for questioning the validity of other orders, decisions and directions)(46) has expired without any application having been made to the High Court under that section;
- (c) an application has been made to the High Court under section 288 of the 1990 Act and the matter has been finally determined, either by final dismissal of the application by a court or by the quashing of the Welsh Ministers' decision and the issue of a fresh decision (without a further application under the said section 288); or
- (d) it has been withdrawn before being decided by the authority or the Welsh Ministers, as the case may be, or an appeal has been withdrawn before the Welsh Ministers have issued their decision.

(16) Where the register kept by a local planning authority under this article is kept using electronic storage, the authority may make the register available for inspection by the public on a website maintained by the authority for that purpose.

(17) In this article—

- (a) “planning obligation” (“*rhwymedigaeth gynllunio*”) means an obligation entered into by agreement or otherwise by any person interested in land pursuant to section 106 of the 1990 Act (planning obligations)(47); and
- (b) “section 278 agreement” (“*cytundeb adran 278*”) means an agreement entered into pursuant to section 278 of the Highways Act 1980 (agreements as to execution of works)(48).

Register of enforcement and stop notices

30.—(1) Subject to paragraph (2), the register under section 188 of the 1990 Act (register of enforcement and stop notices)(49) must contain the following information with respect to every enforcement notice issued in relation to land in the area of the local planning authority maintaining the register—

- (a) the address of the land to which the notice relates or a plan by reference to which its situation can be ascertained;

(45) Section 78 was amended by section 17(2) of the Planning and Compensation Act 1991 (c. 34) and sections 40(2)(e) and 43(2) of the 2004 Act.

(46) Section 288 was amended by section 18 of, and paragraph 25 of Schedule 3 to, the Tribunals and Inquiries Act 1992 (c. 53).

(47) Section 106 was amended by section 12(1) of the Planning and Compensation Act 1991 (c. 34) and section 174 of the Planning Act 2008 (c. 29). There is no intention at present to bring into force the repeal of section 106 by section 120 of, and Schedule 9 to, the 2004 Act.

(48) Section 278 was substituted by section 23 of the New Roads and Street Works Act 1991 (c. 22).

(49) Section 188 was amended by section 84(6) of, and paragraph 30 of Schedule 7 and Part I of Schedule 19 to, the Planning and Compensation Act 1991. There are other amendments which are not relevant to this Order.

- (b) the name of the issuing authority;
 - (c) the date of issue of the notice;
 - (d) the date of service of copies of the notice;
 - (e) a statement or summary of the breach of planning control alleged and the requirements of the notice, including the period within which any required steps are to be taken;
 - (f) the date specified in the notice as the date on which it is to take effect;
 - (g) information on any postponement of the date specified as the date on which the notice will take effect by reason of section 175(4) of the 1990 Act (appeals: supplementary provisions)⁽⁵⁰⁾ and the date of the final determination or withdrawal of any appeal;
 - (h) the date of service and, if applicable, of withdrawal of any stop notice referring to the enforcement notice, together with a statement or summary of the activity prohibited by any such stop notice; and
 - (i) the date, if any, on which the authority are satisfied that steps required by the notice for a purpose mentioned in section 173(4)(b) of the 1990 Act (contents and effect of notice: remedying any injury to amenity)⁽⁵¹⁾ have been taken.
- (2) That register must also contain the following information with respect to every breach of condition notice served in relation to land in the area of the local planning authority maintaining the register—
- (a) the address of the land to which the notice relates or a plan by reference to which its situation can be ascertained;
 - (b) the name of the serving authority;
 - (c) the date of service of the notice;
 - (d) details of the relevant planning permission sufficient to enable it to be identified; and
 - (e) a statement or summary of the condition which has not been complied with and the requirements of the notice, including the period allowed for compliance.
- (3) All entries relating to an enforcement notice, stop notice or breach of condition notice must be removed from the register if—
- (a) in the case of an enforcement notice or stop notice, the relevant enforcement notice is quashed by the Welsh Ministers;
 - (b) in the case of a breach of condition notice, the notice is quashed by a court;
 - (c) in any case, the relevant notice is withdrawn.
- (4) Every register must include an index for enabling a person to trace any entry in the register by reference to the address of the land to which the notice relates.
- (5) The information prescribed in paragraphs (1) and (2) must be entered in the register as soon as practicable and in any event within 14 days of the occurrence to which it relates.
- (6) The whole of the register must be kept at the principal office of the local planning authority or that part of the register which relates to land in part of that authority's area must be kept at a place within or convenient to that part.

⁽⁵⁰⁾ There is an amendment to section 175(4) not relevant to this Order.

⁽⁵¹⁾ Section 173 was substituted by section 5 of the Planning and Compensation Act 1991 (c. 34).

PART 8

General

Directions

31. Any power conferred by this Order to give a direction includes power to cancel or vary the direction by a subsequent direction.

Use of electronic communications

32.—(1) Where an application is made using electronic communications, the applicant is taken to have agreed—

- (a) to the use of such communications by the authority for the purposes of the application;
- (b) that the applicant's address for those purposes is the address incorporated into, or otherwise logically associated with, the application; and
- (c) that the applicant's deemed agreement under this paragraph will subsist until the applicant gives notice in writing of the withdrawal of consent to the use of electronic communications under paragraph (2).

(2) Where a person is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being carried out electronically, that person must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to a local planning authority for that purpose; or
- (b) revoking any agreement entered into or deemed to have been entered into with the Welsh Ministers or with a local planning authority for that purpose,

and such withdrawal or revocation will be final and will take effect on a date specified by the person in the notice but not less than seven days after the date on which the notice is given.

Revocations, transitional provisions and savings

33.—(1) The statutory instruments specified in the first column of the Table in Schedule 8 are revoked to the extent specified in the corresponding row of the third column of the Table.

(2) In respect of any application for planning permission, consent, agreement or approval made before 1 November 2011—

- (a) articles 26 (appeals) and 29 (register of applications and local development orders) and Schedule 5 (notification where planning permission refused or granted subject to conditions) do not apply; and
- (b) articles 23 (appeals) and 25 (register of applications) of, and Part 2 of Schedule 1 (notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions) to, the Town and Country Planning (General Development Procedure) Order 1995⁽⁵²⁾ apply as those provisions applied immediately prior to 1 November 2011.

(3) In respect of any application for planning permission made before 30 April 2012—

- (a) article 12 (publicity for applications for planning permission) does not apply; and

(52) Relevant amendments were made by S.I. 1996/525, 2004/1434, 2004/3156, 2006/1386, 2006/3390 and 2009/1024.

- (b) article 8 of the Town and Country Planning (General Development Procedure) Order 1995 (publicity for applications for planning permission)⁽⁵³⁾ applies as that provision applied immediately prior to 30 April 2012.

10 March 2012

John Griffiths
Minister for the Environment and Sustainable
Development, one of the Welsh Ministers

⁽⁵³⁾ Relevant amendments were made by [S.I. 1999/293](#) and [2006/1386](#).