
WELSH STATUTORY INSTRUMENTS

2016 No. 55

The Developments of National Significance
(Procedure) (Wales) Order 2016

PART 4

Consultations before the grant of permission

Duty to consult before the grant of permission

22.—(1) The Welsh Ministers must, within the representation period, consult any specialist consultee, except where a specialist consultee has advised the Welsh Ministers that it does not wish to be consulted.

(2) The exception in paragraph (1) does not apply where, in the opinion of the Welsh Ministers, development falls within paragraph (t) of the Table in Schedule 5.

(3) The Welsh Ministers may in any case or class of case also consult any authority, body or person in addition to those specified in Schedule 5.

(4) Where, by or under this article, the Welsh Ministers are required to consult any specialist consultee before granting planning permission—

- (a) they must give notice of the application to the specialist consultee; and
- (b) they must not determine the application until at least 21 days after the date on which the notice is given under sub-paragraph (a).

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

Duty to respond to consultation

23.—(1) The requirement to consult in article 22(1) and (2) is prescribed for the purposes of section 54(2)(b) of the 2004 Act (duty to respond to consultation).

(2) For the purposes of section 54(4)(a) of the 2004 Act the period prescribed is—

- (a) 21 days, beginning with the earlier of—
 - (i) the day on which notice referred to in article 22(4)(a) is given; or
 - (ii) the date of service of a copy of the application on the specialist consultee; or
- (b) such other period as may be agreed in writing between the specialist consultee and the Welsh Ministers.

(3) For the purposes of this article and pursuant to section 54(5)(c) of the 2004 Act, a substantive response is one which—

- (a) where no consultation for the purposes of section 61Z of the 1990 Act has taken place, or the specialist consultee has failed to give a response in accordance with article 10—
 - (i) states that the specialist consultee has no comment to make;

- (ii) states that the specialist consultee has no objection to the proposed development and refers the Welsh Ministers to current standing advice by the specialist consultee on the subject of the consultation;
 - (iii) advises the Welsh Ministers of any concerns identified in relation to the proposed development and how those concerns can be addressed by the applicant;
 - (iv) advises that the specialist consultee objects to the proposed development and sets out the reasons for the objection; or
- (b) where consultation for the purposes of section 61Z of the 1990 Act has taken place and the specialist consultee has given a response in accordance with article 10—
- (i) states that the specialist consultee has no further comment to make in respect of the proposed development and confirms that any comments made under article 10 remain relevant;
 - (ii) advises the Welsh Ministers of any new concerns identified in relation to the proposed development, why the concerns were not identified in the response given in accordance with article 10 and—
 - (aa) how concerns can be addressed by the applicant; or
 - (bb) that the specialist consultee objects to the proposed development and sets out the reasons for the objection.

Duty to respond to consultation: annual reports

24.—(1) Each specialist consultee which is, by virtue of section 54 of the 2004 Act and article 23, under a duty to respond to consultation must give to the Welsh Ministers, not later than 1 July in each year, beginning with the 1 July 2017, a report as to that specialist consultee’s compliance with section 54(4) of the 2004 Act.

(2) Each specialist consultee which is, by virtue of article 10 under a duty to respond to pre-application consultation must, in the report given to the Welsh Ministers in accordance with paragraph (1), include a report as to the specialist consultee’s compliance with that article.

(3) The report must relate to the period of 12 months commencing on 1 April in the preceding year (“the report year”).

(4) The report must contain, in respect of any report year, a statement as to—

- (a) the number of occasions on which the specialist consultee was consulted;
- (b) the number of occasions on which a substantive response was provided;
- (c) when the substantive response was provided; and
- (d) the number of occasions on which the specialist consultee gave—
 - (i) a substantive response outside the period prescribed for the purposes of section 54(4) of the 2004 Act or, as the case may be, the period specified in or referred to in article 10(1); and
 - (ii) a summary of the reasons why.

(5) In this article “substantive response” (“*ymateb o sylwedd*”) means either a substantive response to the applicant or a substantive response to the Welsh Ministers or both in accordance with articles 10 and 23.