



Planning (Wales) Act 2015

2015 anaw 4

PART 6

DEVELOPMENT MANAGEMENT ETC

Requirements for applications to local planning authorities

28 Power of local planning authority to require information with application

In section 62 of TCPA 1990 (applications for planning permission), in subsection (4A) (power of local planning authority to require particulars and evidence: reasonableness), omit “for planning permission for development of land in England”.

29 Invalid applications: notice and appeal

- (1) TCPA 1990 is amended as follows.
- (2) After section 62 insert—

“Wales: appeal against notice that application is not valid

62ZA Wales: notice that application is not valid

- (1) This section applies where an application is made to a local planning authority in Wales—
 - (a) for planning permission, or
 - (b) for any consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted.
- (2) In the case of an application for planning permission, if the authority think the application (or anything accompanying it) does not comply with a validation requirement imposed under section 62, they must give the applicant notice to that effect.

Status: This is the original version (as it was originally enacted).

- (3) The notice must—
- (a) identify the requirement in question, and
 - (b) set out the authority’s reasons for thinking the application does not comply with it.
- (4) In the case of an application for a consent, agreement or approval mentioned in subsection (1)(b), the authority must give notice to the applicant if they think that—
- (a) the application does not comply with the terms of the planning permission in question, or
 - (b) a period prescribed under section 74(1)(e) or 78(2) does not begin to run in relation to the application,
- by virtue of a failure to include information in the application or to provide documents or other materials with it (whether at all or in a particular manner).
- (5) The notice must identify—
- (a) the information, documents or materials in question, and
 - (b) the paragraph of subsection (4) which the authority think applies.
- (6) A development order may make provision about the giving of notice under this section (including provision about information to be included in the notice and how and when the notice is to be given).
- (7) A requirement imposed under section 62 is a validation requirement in relation to an application for planning permission if the effect of the application failing to comply with the requirement is that—
- (a) the local planning authority must not entertain the application (see section 327A), or
 - (b) the period prescribed under section 78(2) does not begin to run in relation to the application.

62ZB Right to appeal to Welsh Ministers against notice

- (1) If a local planning authority give an applicant notice under section 62ZA, the applicant may appeal to the Welsh Ministers.
- (2) In a case relating to an application for planning permission, the appeal may be brought on any one or more of the following grounds—
- (a) that the application complies with the requirement identified in the notice given under section 62ZA(2);
 - (b) that the application is not one to which the requirement applies;
 - (c) that the requirement is not a validation requirement in relation to the application;
 - (d) in the case of a requirement imposed under subsection (3) of section 62, that the requirement does not comply with subsection (4A) of that section.
- (3) In a case relating to an application for a consent, agreement or approval mentioned in section 62ZA(1)(b), the appeal may be brought on any one or more of the following grounds—

Status: This is the original version (as it was originally enacted).

- (a) that the application included the information, or was accompanied by the documents or other materials, identified in the notice given under section 62ZA(4);
 - (b) in a case where notice is given under section 62ZA(4)(a), that the provision of the information, documents or materials is not required in order to comply with the terms of the planning permission;
 - (c) in a case where notice is given under section 62ZA(4)(b), that the period prescribed under section 74(1)(e) or 78(2) (as the case may be) begins to run in relation to the application irrespective of whether the information, documents or materials are provided.
- (4) The appeal must be made by giving notice that complies with any requirements prescribed by a development order.
 - (5) The requirements may relate to how and when the notice is to be given and the information that is to accompany it.
 - (6) The appeal is to be determined on the basis of representations in writing.
 - (7) The Welsh Ministers must either—
 - (a) dismiss the appeal, or
 - (b) quash or vary the notice to which it relates.
 - (8) The Welsh Ministers’ decision on the appeal is final.

62ZC Appeals under section 62ZB: determination by appointed person

- (1) Unless a direction otherwise is given under section 62ZD(1), an appeal under section 62ZB is to be determined by a person appointed by the Welsh Ministers.
- (2) In this section and section 62ZD, “appointed person” means a person appointed under subsection (1).
- (3) At any time before an appointed person determines an appeal, the Welsh Ministers may—
 - (a) revoke the person’s appointment, and
 - (b) appoint another person under subsection (1) to determine the appeal.
- (4) An appointed person has the same powers and duties in relation to an appeal as the Welsh Ministers have under sections 62ZB(7) and 322C and under any regulations made under section 323A.
- (5) An appointed person’s decision on an appeal is to be treated as the decision of the Welsh Ministers.
- (6) The validity of an appointed person’s decision on an appeal may not be questioned by the appellant or the local planning authority in legal proceedings on the ground that the appeal ought to have been determined by the Welsh Ministers and not by an appointed person, unless the appellant or the authority challenge the appointed person’s power to determine the appeal before the person’s decision is given.

62ZD Appeals under section 62ZB: determination by Welsh Ministers in place of appointed person

- (1) The Welsh Ministers may direct that an appeal under section 62ZB which would otherwise be determined by an appointed person is instead to be determined by the Welsh Ministers.
 - (2) The Welsh Ministers must serve a copy of the direction on—
 - (a) the person (if any) appointed to determine the appeal,
 - (b) the appellant, and
 - (c) the local planning authority.
 - (3) In determining the appeal, the Welsh Ministers may take into account any report made to them by a person previously appointed to determine the appeal.
 - (4) The Welsh Ministers may by a further direction revoke a direction under subsection (1) at any time before the appeal is determined.
 - (5) The Welsh Ministers must serve a copy of a direction under subsection (4) on—
 - (a) the person (if any) previously appointed to determine the appeal,
 - (b) the appellant, and
 - (c) the local planning authority.
 - (6) Where the Welsh Ministers give a direction under subsection (4)—
 - (a) they must appoint a person (the “new appointee”) under section 62ZC(1) to determine the appeal;
 - (b) anything done by or on behalf of the Welsh Ministers in connection with the appeal that might have been done by an appointed person is, unless the new appointee directs otherwise, to be treated as having been done by the new appointee;
 - (c) subject to that, section 62ZC applies to the appeal as if no direction under subsection (1) had been given.”
- (3) In section 79 (determination of appeals under section 78), after subsection (1) insert—
- “(1A) On an appeal under section 78, the Welsh Ministers may decide whether a requirement imposed under subsection (3) of section 62 in relation to the application complies with subsection (4A) of that section.
- (1B) But subsection (1A) does not apply if the Welsh Ministers have previously decided whether the requirement complies with section 62(4A) on an appeal under section 62ZB.”

30 Revocation of saving of Town and Country Planning (Applications) Regulations 1988

Article 3 of the [Planning and Compulsory Purchase Act 2004 \(Commencement No. 10 and Saving\) Order 2007 \(S.I. 2007/1369\)](#) (which continues in effect the Town and Country Planning (Applications) Regulations 1988) is revoked.

Determination of applications for planning permission

31 Welsh language

- (1) Section 70 of TCPA 1990 (determination of applications: general considerations) is amended as follows.
- (2) In subsection (2), after paragraph (a) insert—
 - “(aa) any considerations relating to the use of the Welsh language, so far as material to the application;”.
- (3) After subsection (2) insert—

“(2ZA) Subsection (2)(aa) applies only in relation to Wales.”
- (4) The amendments made by this section do not alter—
 - (a) whether regard is to be had to any particular consideration under subsection (2) of section 70 of TCPA 1990, or
 - (b) the weight to be given to any consideration to which regard is had under that subsection.

32 Power to decline to determine retrospective application

In section 70C of TCPA 1990 (power to decline to determine retrospective application), in subsection (1), omit “in England”.

Decision notices and notification of development

33 Decision notices

- (1) TCPA 1990 is amended as follows.
- (2) After section 71 insert—

“71ZA Decision notices: Wales

- (1) A development order may include provision as to—
 - (a) the form of decision notices,
 - (b) the manner in which decision notices are to be given, and
 - (c) the particulars to be contained in decision notices.
- (2) A decision notice must specify any plans or other documents in accordance with which the development to which it relates is to be carried out.
- (3) Where the decision notice relating to a development specifies any plans or other documents in accordance with which the development is to be carried out, the planning permission relating to the development is deemed to be granted subject to the condition that the development must be carried out in accordance with those plans or other documents.
- (4) Subsection (5) applies where, after planning permission is granted in respect of a development in Wales—

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- (a) a local planning authority or the Welsh Ministers give any consent, agreement or approval required by any condition or limitation subject to which the planning permission was granted, or
 - (b) such a condition or limitation is imposed, removed or altered.
- (5) The local planning authority must give a revised version of the decision notice to such persons as may be specified by a development order.
- (6) The revised version of the notice must contain such details relating to the giving of the consent, agreement or approval, or to the imposition, removal or alteration of the limitation or condition, as may be specified by a development order.
- (7) In this section “decision notice” means a notice of a decision to grant planning permission in respect of a development in Wales.”
- (3) In section 90 (development with government authorisation), in subsection (3), insert at the end “(so that section 71ZA applies as if references to the decision notice were to the direction).”
- (4) In section 102 (orders requiring discontinuance of use or alteration or removal of buildings or works), after subsection (2) insert—
- “(2A) Section 71ZA applies where planning permission is granted by an order under this section as if the references to the decision notice were to the order.”

34 Notification of development

In TCPA 1990, after section 71ZA (as inserted by section 33) insert—

**“71ZB Notification of initiation of development and display of notice:
Wales**

- (1) Before beginning any development to which a relevant planning permission relates, a person must give to the local planning authority notice—
 - (a) stating the date on which the development is to begin;
 - (b) giving details of the planning permission and of such other matters as may be specified by a development order.
- (2) A person carrying out development to which a relevant planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a copy of any notice of a decision to grant it.
- (3) A notice under subsection (1) must be in the form specified by a development order; and a copy of a notice to grant planning permission displayed under subsection (2) must be in a form specified by, and must be displayed in accordance with, such an order.
- (4) A notice of a decision to grant a relevant planning permission must set out the duties imposed by subsections (1) to (3).
- (5) A relevant planning permission is deemed to be granted subject to the condition that the duties imposed by subsections (1) to (3) must be complied with.

- (6) For the purposes of this section a relevant planning permission is a planning permission of a description specified by a development order for the development of land in Wales.”

Duration of planning permission

35 Duration of planning permission: general

- (1) Section 91 of TCPA 1990 (general condition limiting duration of planning permission) is amended in accordance with subsections (2) to (6).
- (2) In subsection (1), in paragraph (a), for the words before “beginning with” substitute “the applicable period.”.
- (3) In subsection (3)—
- (a) after “shall” insert “(subject to subsections (3ZA) and (3ZB))”;
 - (b) for the words from “expiration of” to the end, substitute “expiration of the applicable period, beginning with the date of the grant”.
- (4) After subsection (3) insert—
- “(3ZA) Subsection (3ZB) applies if—
- (a) a section 73 permission is granted for the development of land in Wales, but without the condition required by subsection (1), and
 - (b) the previous permission was granted, or deemed to have been granted (whether by virtue of this section or otherwise) subject to a condition as to the time within which development was to be begun.
- (3ZB) The section 73 permission shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than the date on or before which the previous permission required development to be begun.
- (3ZC) The previous permission, in relation to a section 73 permission, is the previous planning permission referred to in section 73(1).
- (3ZD) References in subsections (3ZA) to (3ZC) to a section 73 permission are to a planning permission granted under section 73.”
- (5) In subsection (3A), after “validity” insert “, in respect of the development of land in England.”.
- (6) After subsection (4) insert—
- “(5) The applicable period—
- (a) in relation to England, is three years;
 - (b) in relation to Wales, is five years.”
- (7) In section 73 of TCPA 1990 (determination of applications to develop land without compliance with conditions previously attached), in subsection (5), after “under this section” insert “for the development of land in England”.
- (8) In section 51 of PCPA 2004 (duration of permission and consent), in subsection (1), omit paragraph (a).

36 Duration of outline planning permission

- (1) Section 92 of TCPA 1990 (outline planning permission) is amended in accordance with subsections (2) to (6).
- (2) In subsection (2), for paragraph (b) substitute—
- “(b) that, in the case of outline planning permission for the development of land in England, the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved;
 - (c) that, in the case of outline planning permission for the development of land in Wales, the development must be begun no later than—
 - (i) the expiration of five years from the date of the grant of outline planning permission, or
 - (ii) if later, the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.”
- (3) In subsection (3), after “shall” insert “(subject to subsections (3A) to (3D))”.
- (4) After subsection (3) insert—
- “(3A) If outline planning permission is granted under section 73 for the development of land in Wales, but without the condition required by subsection (2)(a), it shall be deemed to have been granted subject to the following condition.
 - (3B) The condition is that, in the case of any reserved matter, application for approval must be made not later than the date on or before which the previous permission required application for approval, in the case of any matter reserved under the previous permission, to be made.
 - (3C) If outline planning permission is granted under section 73 for the development of land in Wales, but without a condition required by subsection (2)(c), it shall be deemed to have been granted subject to the following condition.
 - (3D) The condition is that the development to which the permission relates must be begun not later than the date on or before which the previous permission required development to be begun.
 - (3E) The previous permission, in relation to outline planning permission granted under section 73, is the previous planning permission referred to in subsection (1) of that section.”
- (5) In subsection (4), omit the words from “of three” to “two years”.
- (6) In subsection (5), after “(b)” insert “or (c)”.
- (7) In section 51 of PCPA 2004 (duration of permission and consent), omit subsection (2).

Consultation etc in respect of certain applications relating to planning permission

37 Consultation etc in respect of certain applications relating to planning permission

In TCPA 1990, after section 100 insert—

“Consultation etc in respect of certain applications relating to planning permission: Wales

100A Wales: consultation etc in respect of certain applications relating to planning permission

- (1) A development order may provide that a local planning authority in Wales to which an application within subsection (5) (a “relevant application”) is made are not to determine the application before the end of a period specified in the order.
- (2) If a local planning authority in Wales to which a relevant application is made consult a statutory consultee about the application, the consultee must give a substantive response.
- (3) That response must be given before the end of—
 - (a) a period specified in a development order, or
 - (b) if the consultee and the authority agree otherwise in writing, whatever period is specified in their agreement.
- (4) A development order may make provision—
 - (a) about information that is to be provided by a local planning authority to a statutory consultee for the purposes of, or in connection with, consultation about a relevant application;
 - (b) about the requirements of a substantive response;
 - (c) requiring a statutory consultee consulted about a relevant application to give a report to the Welsh Ministers about the consultee’s compliance with subsections (2) and (3) (including provision as to the form and content of the report, and the time at which it is to be made).
- (5) An application is within this subsection if it is—
 - (a) an application for approval of reserved matters (within the meaning of section 92);
 - (b) an application for any other consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted;
 - (c) an application under section 96A(4) (non-material changes to planning permission).
- (6) References in this section to a statutory consultee, in relation to a relevant application, are to a person whom, by virtue of section 71 or section 74, the local planning authority was required to consult before determining the original application.
- (7) The original application, in relation to a relevant application, is—

Status: This is the original version (as it was originally enacted).

- (a) in the case of an application within subsection (5)(a) or (b), the application for the planning permission in accordance with which the application for approval, consent or agreement is made;
- (b) in the case of an application within subsection (5)(c), the application for the planning permission to which the application under section 96A(4) relates.”

Stopping up or diversion of public paths

38 Stopping up or diversion of public paths where application for planning permission made

- (1) TCPA 1990 is amended as follows.
- (2) In section 257 (footpaths, bridleways and restricted byways affected by other development: orders by other authorities), in subsection (1A), omit “in England”.
- (3) In section 259 (confirmation of orders)—
 - (a) in each of subsections (1), (1A) and (2), for “Secretary of State” substitute “appropriate national authority”;
 - (b) after subsection (4) insert—
 - “(5) The appropriate national authority, for the purposes of this section, is—
 - (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers.”

Exercise of functions of local planning authority relating to applications

39 Exercise of functions of local planning authority relating to applications

- (1) In TCPA 1990, after section 319 insert—

“Wales: discharge of functions of local planning authority relating to applications

319ZA Requirement for functions to be discharged by committee, sub-committee or officer

- (1) The Welsh Ministers may by regulations require a relevant local planning authority to make arrangements under section 101 of the 1972 Act for a relevant function to be discharged by a committee, sub-committee or officer of the authority.
- (2) The regulations may prescribe the terms of the arrangements (which may include exceptions) and any permitted variations in those terms.
- (3) Where arrangements required by the regulations are in force in relation to a relevant function, the function may only be exercised in accordance with the arrangements (and section 101(4) of the 1972 Act does not apply).

319ZB Size and composition of committee discharging functions

- (1) The Welsh Ministers may by regulations prescribe requirements relating to the size and composition of a committee or sub-committee by which a relevant function is to be discharged.
- (2) A relevant local planning authority may not arrange for a relevant function to be discharged by a committee or sub-committee of the authority which fails to satisfy a requirement of regulations under this section.
- (3) If a committee or sub-committee discharging a relevant function fails to satisfy such a requirement, paragraph 43 of Schedule 12 to the 1972 Act (validity of proceedings) does not apply in relation to the failure.

319ZC Sections 319ZA and 319ZB: supplementary

- (1) Sections 101 and 102 of the 1972 Act have effect subject to sections 319ZA and 319ZB and any regulations made under them.
- (2) Where arrangements are in force under section 101(5) of the 1972 Act for two or more relevant local planning authorities to discharge any of their relevant functions jointly, sections 319ZA and 319ZB apply in relation to those functions as if—
 - (a) references to a committee or sub-committee of a relevant local planning authority were references to a joint committee or sub-committee of those authorities;
 - (b) references to an officer of a relevant local planning authority were references to an officer of any of those authorities.
- (3) Regulations under sections 319ZA and 319ZB may—
 - (a) make different provision for different local planning authorities;
 - (b) make special provision for cases where two or more authorities have made arrangements under section 101(1)(b) or (5) of the 1972 Act for the discharge of any of their relevant functions.

319ZD Interpretation of sections 319ZA to 319ZC

In sections 319ZA to 319ZC—

“the 1972 Act” means the Local Government Act 1972;

“relevant function” means a function exercisable by a relevant local planning authority in relation to an application under this Act;

“relevant local planning authority” means a local planning authority in Wales which is—

- (a) a county council or county borough council,
- (b) a joint planning board, or
- (c) a National Park authority.”

- (2) In section 316 of TCPA 1990 (land of interested planning authorities and development by them), in subsection (3), after “notwithstanding” insert “any provision made by or under sections 319ZA to 319ZC or”.

Status: This is the original version (as it was originally enacted).

- (3) In section 89 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9\)](#) (application of certain general provisions of principal Act), in subsection (1), before the entry relating to section 320, insert—
“sections 319ZA to 319ZD (Wales: discharge of functions of local planning authority relating to applications),”.
- (4) In section 37 of the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) (application of certain general provisions of principal Act), in subsection (2), before the entry relating to section 320, insert—
“sections 319ZA to 319ZD (Wales: discharge of functions of local planning authority relating to applications)”.
- (5) In the [Local Government and Housing Act 1989 \(c. 42\)](#)—
(a) in section 13 (voting rights of members of certain committees), in subsection (9), in the definition of “relevant authority”, for “or (h) to (jb)” substitute “, (h) to (jb) or (n)”;
- (b) in section 20 (power to require adoption of certain procedural standing orders), in subsection (4)(a), after “(a) to (jb)” insert “or (n)”.

Joint planning boards and National Parks

40 Joint planning boards to be hazardous substances authorities

In section 3 of the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) (hazardous substances authorities other than county and county borough councils), after subsection (5B) insert—

“(5C) A joint planning board constituted under section 2(1B) of the principal Act for a united district in Wales is the hazardous substances authority for land in the united district unless subsection (4) or (5) applies.”

41 Power to make provision enabling joint planning boards to exercise development management functions in National Parks

- (1) The Welsh Ministers may by regulations make provision for and in connection with enabling an order under section 2(1B) of TCPA 1990 (joint planning boards in Wales) to—
(a) constitute an area that includes all or part of a National Park in Wales as a united district, and
(b) constitute a joint planning board as the local planning authority for such a united district for the purposes of the planning Acts.
- (2) The regulations may also make provision about whether the functions of a hazardous substances authority under the [Planning \(Hazardous Substances\) Act 1990 \(c. 10\)](#) are to be exercisable in relation to any part of a National Park included in such a united district by the joint planning board for the united district or by the National Park authority for the Park.
- (3) Regulations under this section may—
(a) make different provision for different purposes and different cases;
(b) make incidental, supplementary, consequential, transitory, transitional and saving provision.

Status: This is the original version (as it was originally enacted).

- (4) Regulations under this section may amend or otherwise modify—
 - (a) any enactment contained in, or made under, the planning Acts or PCPA 2004;
 - (b) any other enactment relating to functions exercisable by or in relation to local planning authorities;
 - (c) any enactment relating to National Parks or to functions exercisable by or in relation to National Park authorities.
- (5) Regulations under this section may make provision for a function to be exercisable by or in relation to another person instead of, or as well as, any person by or in relation to whom the function would otherwise be exercisable.
- (6) The power to make regulations under this section is exercisable by statutory instrument.
- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by resolution of the National Assembly for Wales.
- (8) In this section—

“enactment” means a provision contained in any of the following (whenever enacted or made)—

 - (a) an Act of Parliament;
 - (b) an Act or Measure of the National Assembly for Wales;
 - (c) subordinate legislation within the meaning of the [Interpretation Act 1978 \(c. 30\)](#) (including subordinate legislation made under an Act of Parliament or under an Act or Measure of the National Assembly for Wales);

“the planning Acts” has the same meaning as in TCPA 1990 (see section 336(1)).

42 Joint planning boards: power to make consequential and supplementary provision

- (1) Section 9 of TCPA 1990 (power to make consequential and supplementary provision about planning authorities) is amended as follows.
- (2) The existing provision becomes subsection (1) of that section.
- (3) After that subsection insert—

“(2) The provision consequential upon or supplementary to section 2 that may be made by the Welsh Ministers under this section includes provision amending or otherwise modifying—

 - (a) any enactment contained in, or made under, the planning Acts or the Planning and Compulsory Purchase Act 2004;
 - (b) any other enactment relating to functions exercisable by or in relation to local planning authorities;
 - (c) any other enactment relating to functions exercisable by local authorities of any description in connection with the development of land.”