



Historic Environment (Wales) Act 2023

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PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

CHAPTER 2

CONTROL OF WORKS AFFECTING LISTED BUILDINGS

Dealing with applications for consent

92 Procedure for dealing with application

- (1) A planning authority must deal with an application for listed building consent made to the authority unless—
 - (a) it is required not to consider the application under section 90(6) or 91(3), or refuses to do so under section 93 (similar applications), or
 - (b) it is required to refer the application to the Welsh Ministers under section 94.
- (2) The Welsh Ministers may by regulations—
 - (a) impose requirements relating to publicity for applications for listed building consent made to planning authorities or the Welsh Ministers;
 - (b) impose requirements for consultation or notification in relation to applications;
 - (c) provide that an application must not be determined during a period specified in the regulations;
 - (d) require planning authorities or the Welsh Ministers, in determining applications, to take account of responses from persons consulted or notified;
 - (e) make provision about the time within which a planning authority or the Welsh Ministers must deal with an application.

- (3) The Welsh Ministers may direct a planning authority to notify persons specified in the direction of—
 - (a) an application made to the authority for listed building consent, and
 - (b) the decision taken by the authority on the application.
- (4) A direction may relate to—
 - (a) a particular case, or
 - (b) cases of a description specified in the direction.

93 Power to refuse to consider similar applications

- (1) A planning authority may refuse to consider an application for listed building consent if the first and second conditions are met.
- (2) The first condition is that in the 2 years ending with the day the authority receives the application any of the following has occurred—
 - (a) the Welsh Ministers have refused a similar application for listed building consent referred to them under section 94,
 - (b) the Welsh Ministers have dismissed—
 - (i) an appeal under section 100(2) against the refusal of a similar application for listed building consent, or
 - (ii) an appeal under section 100(3) relating to a similar application, or
 - (c) the planning authority has refused two or more similar applications for listed building consent and in each case—
 - (i) there has been no appeal to the Welsh Ministers, or
 - (ii) any appeal to the Welsh Ministers has been withdrawn.
- (3) The second condition is that the planning authority considers that there has been no significant change in any relevant considerations since—
 - (a) the Welsh Ministers refused the similar application, in a case falling within subsection (2)(a),
 - (b) the Welsh Ministers dismissed the appeal, in a case falling within subsection (2)(b), or
 - (c) the planning authority most recently refused a similar application, in a case falling within subsection (2)(c).
- (4) For the purposes of this section an application is similar to another application if (and only if) the planning authority considers that the listed building and works to which the applications relate are the same or substantially the same.

94 Reference of application to Welsh Ministers

- (1) The Welsh Ministers may direct a planning authority to refer an application for listed building consent to them for determination instead of dealing with the application itself.
- (2) A direction may relate to a particular application, or to applications in relation to buildings specified in the direction.
- (3) A planning authority must refer an application to which a direction under this section applies to the Welsh Ministers.

- (4) A planning authority must refer an application for listed building consent to the Welsh Ministers for determination, without being directed to do so, if the consent is sought in consequence of proposals included in an application for an order under section 1 or 3 of the [Transport and Works Act 1992 \(c. 42\)](#) (orders relating to construction or operation of railways, tramways, inland waterways etc.).
- (5) Chapter 2 of Part 5 makes provision about the procedure for the consideration of applications referred to the Welsh Ministers under this section.
- (6) The decision of the Welsh Ministers on an application is final.

95 Notification to Welsh Ministers before granting consent

- (1) A planning authority to which an application for listed building consent is made may not grant consent unless—
 - (a) it has notified the Welsh Ministers of the application, giving details of the works for which consent is sought, and
 - (b) the first or second condition is met.
- (2) The first condition is that the 28 days beginning with the day the Welsh Ministers were notified have ended without the Welsh Ministers either—
 - (a) directing the authority to refer the application to them under section 94, or
 - (b) notifying the authority that they need more time to consider whether to give a direction under that section.
- (3) The second condition is that the Welsh Ministers have notified the authority that they do not intend to direct it to refer the application to them.
- (4) The Welsh Ministers may by regulations provide that subsection (1) does not apply to applications for listed building consent of a description specified in the regulations.
- (5) The Welsh Ministers may direct a planning authority—
 - (a) that subsection (1) is not to apply to an application to the authority for listed building consent, or
 - (b) that subsection (1) is to apply to an application to the authority despite any provision made by regulations under subsection (4) or by a direction under paragraph (a).
- (6) A direction may relate to—
 - (a) a particular application for listed building consent, or
 - (b) applications of a description specified in the direction,and has effect in relation to any application that the authority has not determined.
- (7) The Welsh Ministers may specify a description of applications under subsection (4) or (6)(b) by reference to the opinion of any person, the availability of specialist advice in relation to the applications, or any other circumstance.

96 Grant or refusal of consent

- (1) On determining an application for listed building consent, a planning authority or the Welsh Ministers may grant or refuse consent.

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

- (2) In considering whether to grant listed building consent, a planning authority or the Welsh Ministers must have special regard to the desirability of preserving—
 - (a) the listed building to which the application relates,
 - (b) the setting of the building, and
 - (c) any features of special architectural or historic interest the building possesses.
- (3) Listed building consent has effect for the benefit of the listed building and the land on which it is situated, and of all persons for the time being interested in the building and land; but this is subject to the terms of the consent.