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WELSH STATUTORY INSTRUMENTS

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**2012 No. 801**

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

**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<sup>(1)</sup>, 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—

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(1) 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<sup>(2)</sup> 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;

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(2) 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)(3); 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)(4).

(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

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

(4) 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)(5).

### **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)(6), and the “prescribed date” (“*dyddiad rhagnodedig*”) for the purposes of this article, is the day 21 days before the date of the application.

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

(6) 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)(7) 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.

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(7) 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)<sup>(8)</sup> 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)<sup>(9)</sup>, 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)<sup>(10)</sup> 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;

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<sup>(8)</sup> 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.

<sup>(9)</sup> 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.

<sup>(10)</sup> 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.