
WELSH STATUTORY INSTRUMENTS

2012 No. 801

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

PART 5

Appeals

[^{F1}Appeals against notice of non-validation

24C.—(1) An applicant who wishes to appeal to the Welsh Ministers under section 62ZB of the 1990 Act must give notice of appeal to the Welsh Ministers by—

- (a) serving on the Welsh Ministers, within the time limit specified in paragraph (2), a form obtained from the Welsh Ministers together with the documents referred to in paragraph (3); and
- (b) serving on the local planning authority, as soon as reasonably practicable, a copy of the form and the documents that are served on the Welsh Ministers.

(2) The time limit mentioned in paragraph (1)(a) is two weeks from the date of the service of the notice pursuant to article 8(3A) or 23(5) stating that the application is invalid or such longer period as the Welsh Ministers may at any time allow.

(3) For the purposes of paragraph (1)(a) the documents are—

- (a) in the case of an application for planning permission—
 - (i) a copy of the notice served pursuant to article 8(3A) stating that the application is invalid;
 - (ii) a copy of the application made to the local planning authority which has occasioned the appeal; and
 - (iii) a copy of the forms, documents, plans, drawings, statements, declarations, certificates, particulars or evidence mentioned in articles 5 and 8(1) which were given to the authority in connection with the application before the date of the notice served pursuant to article 8(3A) stating that the application is invalid.
- (b) in the case of an application made under article 23—
 - (i) a copy of the notice served pursuant to article 23(5) stating that the application is invalid;
 - (ii) a copy of the application made to the local planning authority which has occasioned the appeal;
 - (iii) a copy of the notice of the decision to grant planning permission, if any, pursuant to which the application is made; and
 - (iv) a copy of the forms, documents, plans, drawings, statements, declarations, certificates, particulars or evidence (including such of them that are mentioned in article 4(1) where applicable) which were given to the authority in connection with

the application before the date of the notice served pursuant to article 23(5) stating that the application is invalid.

- (c) Where sub-paragraph (b)(iii) applies and a revised version of the notice of the decision has been issued by the authority in accordance with section 71ZA(5) of the 1990 Act and article 24A, sub-paragraph (b)(iii) is to be read as referring to the revised version of the notice.

(4) The Welsh Ministers may refuse to accept a notice of appeal from an applicant if the form and documents required under paragraph (1)(a) 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 62ZB 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.]

F1 Art. 24C inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(4)** (with art. 15(5))

Notice of appeal [^{F2}under section 78 of the 1990 Act]

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.

F2 Words in art. 25 heading inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(5)**

Appeals [^{F3}under section 78 of the 1990 Act]

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—

- (a) serving on the Welsh Ministers ^{F4}... a form obtained from the Welsh Ministers [^{F5}and a full statement of case], 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 [^{F6}paragraph (3)(a)(ii) or (3)(b)(v)] [^{F7}and a copy of the full statement of case].

(2) [^{F8}For the purposes of section 78(3) of the 1990 Act the prescribed time within which an appeal must be made under section 78(1) of that Act is] ^{F9}...—

- [^{F10}(a) in the case of a householder appeal or a minor commercial appeal, twelve weeks from the date of the notice of the decision or determination giving rise to the appeal;
(b) in the case of any other appeal under section 78(1), six months from—
(i) the date of the notice of the decision or determination giving rise to the appeal; or

- (ii) 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.

[^{F11}(3) The documents mentioned in paragraph (1) are—

- (a) in the case of a householder appeal or a minor commercial appeal—
 - (i) a copy of the application which was sent to the local planning authority which has occasioned the appeal;
 - (ii) any other plans, documents or drawings relating to the application which were not sent to the local planning authority, except any plans, documents or drawings relating to amendments to the application proposed after the local planning authority have made their determination; and
 - (iii) the notice of the decision or determination;
- (b) in the case of any other appeal made under section 78—
 - (i) the application made to the local planning authority which has occasioned the appeal;
 - (ii) all plans, drawings and documents sent to the authority in connection with the application;
 - (iii) all correspondence with the authority relating to the application;
 - (iv) any certificate provided to the authority under article 11;
 - (v) any other plans, documents or drawings relating to the application which were not sent to the authority;
 - (vi) the notice of the decision or determination, if any;
 - (vii) 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.]

[^{F12}(c) where this paragraph specifies the planning permission granted and a revised version of the notice of the decision to grant planning permission has been issued by the authority in accordance with section 71ZA(5) of the 1990 Act and article 24A, it is to be read as specifying the revised version of the notice.]

[^{F13}(4) The Welsh Ministers may refuse to accept a notice of appeal—

- (a) under section 78(1) of the 1990 Act if the documents required under paragraphs (1) and (3) are not served on the Welsh Ministers within the time prescribed in paragraph (2);
- (b) under section 78(2) of the 1990 Act if the documents required under paragraphs (1) and (3) are not served on the Welsh Ministers.]

(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.

[^{F14}(7) In this article—

“householder appeal” (“*apêl deiliad tŷ*”) means an appeal under section 78(1)(a) of the 1990 Act in relation to a householder application but does not include—

- (a) an appeal against the grant of any planning permission which is granted subject to conditions; or
 - (b) an appeal which is accompanied by an appeal under section 174 of the 1990 Act or under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- “minor commercial appeal” (“*apêl fasnachol fach*”) means an appeal under section 78(1)(a) of the 1990 Act in relation to a minor commercial application but does not include—
- (a) an appeal against the grant of any planning permission which is granted subject to conditions; or
 - (b) an appeal which is accompanied by an appeal under section 174 of the 1990 Act or under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990.]

- F3** Words in art. 26 heading inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(6)**
- F4** Words in art. 26(1)(a) omitted (5.5.2017) by virtue of [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), **5(1)(a)** (with art. 8)
- F5** Words in art. 26(1)(a) inserted (5.5.2017) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), **5(1)(b)** (with art. 8)
- F6** Words in art. 26(1)(b) substituted (22.6.2015) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2015 \(S.I. 2015/1330\)](#), arts. 1(1), **8(1)** (with art. 12)
- F7** Words in art. 26(1)(b) inserted (5.5.2017) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), **5(1)(c)** (with art. 8)
- F8** Words in art. 26(2) substituted (5.5.2017) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), **5(2)** (with art. 8)
- F9** Words in art. 26(2) omitted (22.6.2015) by virtue of [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2015 \(S.I. 2015/1330\)](#), arts. 1(1), **8(2)(a)** (with art. 12)
- F10** Art. 26(2)(a)(b) substituted for art. 26(2)(a)-(c) (22.6.2015) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2015 \(S.I. 2015/1330\)](#), arts. 1(1), **8(2)(b)** (with art. 12)
- F11** Art. 26(3) substituted (22.6.2015) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2015 \(S.I. 2015/1330\)](#), arts. 1(1), **8(3)** (with art. 12)
- F12** Art. 26(3)(c) inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **12(2)**
- F13** Art. 26(4) substituted (5.5.2017) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), **5(3)** (with art. 8)
- F14** Art. 26(7) inserted (22.6.2015) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2015 \(S.I. 2015/1330\)](#), arts. 1(1), **8(4)** (with art. 12)

[^{F15}Appeal made [^{F16}under section 78 of the 1990 Act]: Functions of a local planning authority

26A. The additional period prescribed for the purposes of section 78A is four weeks.]

- F15** Art. 26A inserted (22.6.2015) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2015 \(S.I. 2015/1330\)](#), arts. 1(1), **9** (with art. 12)

F16 Words in art. 26A heading inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(7)**

[^{F17} Appeals under section 195 of the 1990 Act

26B.—(1) An applicant who wishes to appeal to the Welsh Ministers under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application for a certificate of lawfulness of existing or proposed use or development) must give notice of appeal to the Welsh Ministers by—

- (a) serving on the Welsh Ministers a form obtained from the Welsh Ministers, together with—
 - (i) such of the documents specified in paragraph (2) as are relevant to the appeal; and
 - (ii) a full statement of case;

- (b) serving on the local planning authority a copy of the form mentioned in sub-paragraph (a), as soon as reasonably practicable, together with a copy of any relevant documents mentioned in paragraph (2)(d) and a copy of the full statement of case.

(2) The documents mentioned in paragraph (1)(a)(i) are—

- (a) the application made to the local planning authority which 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 other plans, documents or drawings relating to the application which were not sent to the authority;
- (e) the notice of the decision or determination, if any.

(3) For the purposes of section 195(1B) of the 1990 Act the prescribed time within which an appeal must be made under section 195(1)(a) of that Act is 6 months from the date of the notice of the decision or determination giving rise to the appeal.

(4) The Welsh Ministers may refuse to accept a notice of appeal—

- (a) under section 195(1)(a) of the 1990 Act if the documents required under paragraphs (1) and (2) are not served on the Welsh Ministers within the time prescribed in paragraph (3);
- (b) under section 195(1)(b) of the 1990 Act if the documents required under paragraphs (1) and (2) are not served on the Welsh Ministers.

(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 195 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.]

F17 Art. 26B inserted (5.5.2017) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), **6** (with art. 8)

[^{F18} Variation of applications after notice of appeal

26C.—(1) For the purposes of sections 78(4BA) and 195(1DA) of the 1990 Act the prescribed circumstance is the application to which the appeal relates contains a correctable error.

Changes to legislation: There are currently no known outstanding effects for the *The Town and Country Planning (Development Management Procedure) (Wales) Order 2012, PART 5*. (See end of Document for details)

(2) An application which is varied in the circumstance prescribed in paragraph (1) is subject to such further consultation as the Welsh Ministers consider appropriate.

(3) In this article “correctable error” (“*gwall cywiradwy*”) means an error which—

- (a) is corrected in order to ensure consistency in the information contained in the application and the accompanying documents; and
- (b) does not alter the substance of the application.]

F18 Art. 26C inserted (5.5.2017) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2017 \(S.I. 2017/542\)](#), arts. 1(1), 7 (with art. 8)

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Development Management Procedure) (Wales) Order 2012, PART 5 .