
WELSH STATUTORY INSTRUMENTS

2012 No. 801

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

PART 6

Miscellaneous

Local development orders

27.—(1) Where a local planning authority propose to make a local development order the authority must first prepare—

- (a) a draft of the order; and
- (b) a statement of the authority's reasons for making the order.

(2) The statement of reasons must contain—

- (a) a description of the development which the order would permit; and
- (b) a plan or statement identifying the land to which the order would relate.

(3) Where a local planning authority have prepared a draft local development order, the authority must consult, in accordance with paragraph (5), such of the following persons whose interests the authority considers would be affected by the order if made—

- (a) a local planning authority or community council any part of whose area is in or adjoins the authority's area;
- (b) the Countryside Council for Wales⁽¹⁾;
- (c) the Environment Agency⁽²⁾;
- (d) the Welsh Ministers;
- (e) any person—
 - (i) to whom the electronic communications code applies by virtue of a direction given under section 106(3)(a) of the Communications Act 2003 (application of the electronic communications code)⁽³⁾; and
 - (ii) who owns or controls electronic communications apparatus situated in any part of the authority's area;
- (f) any of the following persons who exercise functions in any part of the authority's area—
 - (i) a Local Health Board⁽⁴⁾;

(1) See section 128(1) of the Environmental Protection Act 1990 (c. 43).

(2) See section 1(1) of the Environment Act 1995 (c. 25).

(3) 2003 c. 21.

(4) See section 11 of the National Health Service (Wales) Act 2006 (c. 42).

- (ii) a person to whom a licence has been granted under section 6(1)(b) and (c) of the Electricity Act 1989 (licences authorising supply, etc)(5);
 - (iii) a person to whom a licence has been granted under section 7(2) of the Gas Act 1986 (licensing of gas transporters)(6);
 - (iv) a sewerage undertaker;
 - (v) a water undertaker;
 - (g) voluntary bodies some or all of whose activities benefit any part of the authority's area;
 - (h) bodies which represent the interests of different racial, ethnic or national groups in the authority's area;
 - (i) bodies which represent the interests of different religious groups in the authority's area;
 - (j) bodies which represent the interests of disabled persons in the authority's area;
 - (k) bodies which represent the interests of persons carrying on business in the authority's area.
- (4) The local planning authority must also consult any person with whom they would have been required to consult on an application for planning permission for the development proposed to be permitted by the order.
- (5) In consulting in accordance with paragraphs (3) and (4) the local planning authority must—
- (a) send a copy of the draft order and the statement of reasons to the consultees;
 - (b) specify a consultation period of not less than 28 days; and
 - (c) take account of all representations received by them during the period specified.
- (6) A local planning authority must, during any consultation under paragraphs (3) and (4)—
- (a) make a copy of the draft local development order and statement of reasons available for inspection—
 - (i) at their principal office during normal working hours; and
 - (ii) at such other places within their area as they consider appropriate;
 - (b) publish on their website—
 - (i) the draft local development order and the statement of reasons;
 - (ii) a statement that those documents are available for inspection and the places where and times when they can be inspected; and
 - (iii) the date by which representations on the draft local development order must be received, which must be not less than 28 days after the date of first publication on the website; and
 - (c) give notice by local advertisement of—
 - (i) the draft local development order and the statement of reasons;
 - (ii) the availability of those documents for inspection, and the places where and times when they can be inspected; and
 - (iii) the date by which representations on the draft local development order must be received, which must be not less than 28 days from the date on which the notice was first published.

(5) 1989 c. 29. Section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27), subsection (1)(b) was substituted by section 136(1) of the Energy Act 2004 (c. 20) and subsection (1)(c) was amended by section 197(9) of, and Part 1 of Schedule 23 to, the Energy Act 2004.

(6) 1986 c. 44; section 7 was substituted by section 5 of the Gas Act 1995 (c. 45) and subsection (2) was amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Part I of Schedule 6 to, the Utilities Act 2000.

(7) Where the draft local development order would grant planning permission for development specified in the order, the local planning authority must also give notice of the proposal to make the order—

- (a) by displaying in at least one place on or near to the site to which the order relates a notice in the form set out in Schedule 6 or in a form substantially to the like effect, and, subject to paragraph (8), leaving the notice in position for a period of not less than 28 days beginning with the date on which it is first displayed; and
- (b) by serving a copy of that notice on every person whom the authority know to be the owner or tenant of any part of the site whose name and address is known to the authority,
- (c) and must specify in the notice a date by which representations on the draft local development order must be received, which must be not less than 28 days from the date on which the notice was displayed or served, as the case may be.

(8) Where the notice referred to in paragraph (7)(a) is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period referred to in that paragraph has elapsed, the authority are to be treated as having complied with the requirements of that paragraph if the authority have taken reasonable steps to protect the notice, and, if necessary, replace it.

(9) Where any notice of the proposal has been—

- (a) published on the local planning authority's website or by local advertisement in accordance with paragraph (6);
- (b) given by site display under paragraph (7)(a); or
- (c) served on an owner of the land or a tenant under paragraph (7)(b),

the authority must, in considering what modifications should be made to the draft local development order or whether such an order should be adopted, take into account any representations made in relation to that order and received by the authority by the date specified on the website or in the notices, in accordance with paragraph (6) or (7) as the case may be, as the date by which representations should be made (or, if the dates on the website or in the notices differ from each other, the latest of such dates).

(10) A local planning authority must send a copy of a draft local development order and the statement of reasons relating to that order, including any modifications made to the order or statement, to the Welsh Ministers at any time after the authority have complied with the requirements of paragraph (9).

(11) Subject to paragraph (12), a local planning authority must not take any further steps in connection with the adoption of a local development order until either—

- (a) the Welsh Ministers have notified the authority in writing that the Welsh Ministers do not intend to make a direction under section 61B(1) of the 1990 Act (intervention by Welsh Ministers)(7); or
- (b) a period of 21 days has elapsed from the date on which the draft was sent to the Welsh Ministers and the Welsh Ministers have not notified the authority that the Welsh Ministers intend to make such a direction or require more time to reach a decision.

(12) If, within the period of 21 days referred to in paragraph (11)(b), the Welsh Ministers have notified the local planning authority that the Welsh Ministers require more time to reach a decision, the authority must not take any further steps in connection with the adoption of the order unless the Welsh Ministers notify the authority as referred to in paragraph (11)(a).

(13) A local development order must not be made so as to grant planning permission—

- (a) for development affecting a listed building; or

(7) Section 61B was inserted by section 40(1) of the 2004 Act.

- (b) for development which is EIA development.
- (14) Where a local planning authority revokes a local development order the authority must—
 - (a) publish on their website a statement that the local development order has been revoked;
 - (b) give notice of the revocation by local advertisement; and
 - (c) give written notice of the revocation to every person whom the authority consulted under paragraphs (3) or (4) before the making of the order.
- (15) In this article—
 - (a) a requirement to give notice by local advertisement is a requirement to publish the notice in as many newspapers as necessary to secure that the press coverage (taken as a whole) extends to the whole of the area to which the local development order relates; and
 - (b) “listed building” (“*adeilad rhestredig*”) has the meaning given in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (listing of buildings of special architectural or historic interest)(8).

Certificate of lawful use or development

28.—(1) An application for a certificate under section 191(1) or 192(1) of the 1990 Act (certificates of lawfulness of existing or proposed use or development)(9) must be made on a form published by the Welsh Ministers (or a form substantially to the like effect) and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the particulars specified or referred to in the form.

- (2) An application to which paragraph (1) applies must be accompanied by—
 - (a) a plan identifying the land to which the application relates drawn to an identified scale and showing the direction of north;
 - (b) such evidence verifying the information included in the application as the applicant can provide; and
 - (c) a statement setting out the applicant’s interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.
- (3) Where an application for a certificate under section 192(1) of the 1990 Act is made in respect of Crown land, it must, in addition to the documents required by paragraph (2), 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.
- (4) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application must indicate to which part of the land each such use, operation or matter relates.
- (5) Where an application is made using electronic communications the provisions of article 32 apply.
- (6) Articles 8(1) and 22(5) apply to an application for a certificate to which paragraph (1) applies as they apply to an application for planning permission.
- (7) When the local planning authority receive an application which complies with the requirements of paragraphs (1) to (4) and any fee required to be paid with respect to the application

(8) 1990 c. 9.

(9) Sections 191 and 192 were substituted by the Planning and Compensation Act 1991 (c. 34) section 10(1).

is lodged, they must, as soon as reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.

(8) Where, after sending an acknowledgement as required by paragraph (7), 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.

(9) The local planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.

(10) Where a valid application has been received, the local planning authority must give the applicant written notice of their decision within—

- (a) the period of eight weeks beginning with the day the application is received by the authority; or
- (b) unless the applicant has already given notice of appeal to the Welsh Ministers within such extended period as may be agreed in writing between the applicant and the authority.

(11) For the purpose of calculating the appropriate period specified in paragraph (10) where any fee required has been paid by a cheque which is subsequently dishonoured, the period between the date when the local planning authority send the applicant written notice of the dishonouring of the cheque and the date when the authority are satisfied that they have received the full amount of the fee must be disregarded.

(12) In this article, “valid application” (“*cais dilys*”) means an application which—

- (a) complies with the requirements of paragraphs (1) to (4); and
- (b) is accompanied by the fee required to be paid in respect of the application and, for this purpose, lodging a cheque for the amount of the fee is to be taken as payment,

and a valid application must be taken to have been received when the application and all of the documents, particulars or evidence referred to in paragraphs (1) to (4) and any fee required have been lodged with the local planning authority.

(13) Where an application is refused, in whole or in part (including a case in which the local planning authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision must state clearly and precisely the authority’s full reasons for their decision and must include a statement to the effect that if the applicant is aggrieved by the decision the applicant may appeal to the Welsh Ministers under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application)(**10**).

(14) A certificate under section 191 or 192 of the 1990 Act must be in the form set out in Schedule 7, or in a form substantially to the like effect.

(15) Where a local planning authority propose to revoke a certificate issued under section 191 or 192 of the 1990 Act in accordance with section 193(7) of the 1990 Act (certificates under sections 191 and 192: supplementary provisions)(**11**), they must, before they revoke the certificate, give notice of that proposal to—

- (a) the owner of the land affected;
- (b) the occupier of the land affected;
- (c) any other person who will in their opinion be affected by the revocation; and
- (d) in the case of a certificate issued by the Welsh Ministers under section 195 of the 1990 Act, the Welsh Ministers.

(10) Section 195 was amended by section 32 of, and paragraph 32 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 197 of, and paragraphs 1 and 3 to Schedule 11 to, the Planning Act 2008 (c. 29).

(11) Section 193 was substituted by section 10(1) of the Planning and Compensation Act 1991.

(16) A notice issued under paragraph (15) must invite the person on whom the notice is served to make representations on the proposal to the local planning authority within 14 days of service of the notice and the authority must not revoke the certificate until all such periods allowed for making representations have expired.

(17) A local planning authority must give written notice of any revocation under section 193(7) of the 1990 Act to every person on whom notice of the proposed revocation was served under paragraph (15).