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WELSH STATUTORY INSTRUMENTS

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**2016 No. 55**

**The Developments of National Significance  
(Procedure) (Wales) Order 2016**

**PART 2**

**Pre-application**

**Notification of proposed development**

**5.—**(1) An applicant must notify the Welsh Ministers and local planning authority of a proposed application in accordance with the following provisions of this article.

(2) The notification (“notification of proposed development”) (“hysbysiad o ddatblygiad arfaethedig”) must consist of—

- (a) the form published for this purpose by the Welsh Ministers (or a form substantially to the like effect), including the particulars specified or referred to in the form;
- (b) a plan which identifies the land to which the application relates; and
- (c) either—
  - (i) a statement confirming that an environmental statement will be provided; or
  - (ii) a screening direction.

(3) Such notification must be accompanied by any fee required to be paid in relation to the giving of such notification.

**Acceptance of notification of proposed development**

**6.—**(1) Where an applicant notifies the Welsh Ministers of a proposed application in accordance with article 5, the Welsh Ministers must give notice to the applicant and local planning authority of their acceptance of that notification in accordance with the following provisions of this article.

(2) Such notice must be given in writing within 10 working days, beginning with the day of receipt of the notification by the Welsh Ministers (or such longer period as the Welsh Ministers may in any particular case determine).

(3) Where the Welsh Ministers give notice in accordance with this article and the applicant does not make an application within 12 months, beginning with the date on which the notice is given, the notice is to be taken as having lapsed, and in such circumstances the applicant must give a fresh notification of proposed development in accordance with article 5 before any application may be made.

(4) Where the Welsh Ministers consider that they have received notification of proposed development which is not in accordance with article 5, they must within 10 working days, beginning with the day of receipt of the notification by the Welsh Ministers (or such longer period as the Welsh Ministers may in any particular case determine) inform the following in writing that such notification is not accepted —

- (a) the applicant;
- (b) the local planning authority; and
- (c) any other persons that the Welsh Ministers consider appropriate.

### **Requirement to carry out pre-application consultation**

7. Development of national significance<sup>(1)</sup> is specified for the purposes of section 61Z of the 1990 Act (Wales: requirement to carry out pre-application consultation).

### **Publicity before applying for planning permission**

8.—(1) The applicant must publicise the proposed application by—

- (a) giving requisite notice—
  - (i) by site display in at least one place on or near the land to which the proposed application relates for not less than 42 days;
  - (ii) in writing to any owner or occupier of any land adjoining the land to which the proposed application relates: and
  - (iii) by publication of the notice in a newspaper circulating in the locality in which the land to which the proposed application relates is situated; and
- (b) publishing the following information on a website maintained by the applicant, for not less than 42 days beginning with each day on which each of the notices referred to in subparagraph (a) or article 9(2) are given—
  - (i) the draft application form published by the Welsh Ministers under article 12(1)(a) (or a form substantially to the like effect), including the particulars specified in or referred to in the form;
  - (ii) a plan which identifies the land to which the proposed application relates;
  - (iii) any other plans, drawings and information necessary to describe the development which is the subject of the proposed application;
  - (iv) a copy of the notice required by article 6 which has not lapsed under paragraph (3) of that article;
  - (v) the design and access statement required by article 14;
  - (vi) subject to article 12(3), the particulars or evidence required by the Welsh Ministers under section 62(3) of the 1990 Act (applications for planning permission)<sup>(2)</sup>;
  - (vii) where applicable, a statement referred to as the environmental statement for the proposed development; and
  - (viii) a written statement about any secondary consent<sup>(3)</sup> connected with the proposed application<sup>(4)</sup> in respect of which the applicant considers a decision on that consent is to be made or should be made by the Welsh Ministers, together with the draft application form and documents associated with such consents.

(2) The applicant must have complied with paragraph (1) before an application is submitted.

(3) Any plans or drawings required to be provided by paragraph (1)(b)(ii) or (iii) must be drawn to a scale identified by the applicant and, in the case of plans, must show the direction of north.

(1) See section 62D(3) of the 1990 Act and the Specified Criteria and Prescribed Secondary Consents Regulations.

(2) Section 62(3) was applied with modifications by article 3(1) of the Application of Enactments Order.

(3) For the definition of “secondary consent” (“*cydsyniad eilaidd*”) see section 62H of the 1990 Act. Section 62H was inserted by section 20 of the 2015 Act. Secondary consents are prescribed for the purposes of section 62H(1) by the Specified Criteria and Prescribed Secondary Consents Regulations.

(4) See section 62F(6) of the 1990 Act. Section 62F was inserted by section 20 of the 2015 Act.

(4) Where the notice referred to in paragraph (1)(a)(i) is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 42 days has elapsed, the applicant 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.

(5) In this article, “requisite notice” (“*hysbysiad gofynnol*”) means notice in the appropriate form set out in Schedule 1 or in a form substantially to the like effect.

### **Consultation before applying for planning permission**

**9.**—(1) The following persons or descriptions of persons are specified for the purposes of section 61Z(4) of the 1990 Act—

- (a) any community consultee;
- (b) any specialist consultee; and
- (c) any relevant person<sup>(5)</sup>.

(2) Where an applicant is required to consult a community consultee or a relevant person, the applicant must give the community consultee or the relevant person requisite notice in writing of the proposed application.

(3) Where an applicant is required to consult a specialist consultee, the applicant must give the specialist consultee requisite notice in writing of the proposed application and enclose each of the documents referred to in article 8(1)(b) or provide a link to a website on which those documents can be found.

(4) The applicant must have complied with paragraphs (2) and (3) and have given the specialist consultee time to respond in accordance with article 10(1) before an application is submitted.

(5) In this article, “requisite notice” (“*hysbysiad gofynnol*”) means—

- (a) in relation to a community consultee or a relevant person notice in the appropriate form set out in Schedule 1; and
- (b) in relation to a specialist consultee notice in the appropriate form set out in Schedule 2, or in a form substantially to the like effect.

### **Duty to respond to pre-application consultation: specialist consultees**

**10.**—(1) A specialist consultee, consulted in accordance with the provisions of section 61Z(4) of the 1990 Act, must provide a substantive response within 42 days beginning with the day on which the notice referred to in article 9(3) is given or such other period as may be agreed in writing between the specialist consultee and the applicant.

(2) For the purposes of this article, a substantive response is one which—

- (a) states that the specialist consultee has no comment to make;
- (b) states that the specialist consultee has no objection to the proposed development and refers the applicant to current standing advice by the specialist consultee on the subject of the consultation;
- (c) advises the applicant of any concerns identified in relation to the proposed development and how those concerns can be addressed; or
- (d) advises the applicant that the specialist consultee has concerns and that it would object to an application for planning permission made in the same or substantially the same terms and sets out the reasons for those objections.

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(5) See section 62G(2) of the 1990 Act for the meaning of “relevant person” (“*person perthnasol*”). Section 62G was inserted by section 20 of the 2015 Act.

**Pre-application consultation reports**

**11.**—(1) Where an applicant submits an application to the Welsh Ministers in accordance with article 12, that application must be accompanied by a pre-application consultation report which gives particulars of—

- (a) how the applicant complied with section 61Z of the 1990 Act;
  - (b) any response to the consultation received from persons consulted under section 61Z(3) or (4) of the 1990 Act; and
  - (c) the account taken of those responses.
- (2) The pre-application consultation report must include—
- (a) a copy of the notice referred to in article 8(1)(a)(i);
  - (b) a declaration that the notice referred to in article 8(1)(a)(i) was displayed in accordance with the requirements of that article;
  - (c) a list of the addresses of the persons who were given notice of the proposed application in accordance with article 8(1)(a)(ii) and a copy of the notice given to such persons;
  - (d) a copy of the publication referred to in article 8(1)(a)(iii);
  - (e) a declaration that the applicant has complied with the publication requirements in article 8(1)(b);
  - (f) copies of all notices given to community consultees, relevant persons and specialist consultees in accordance with articles 9(2) and 9(3);
  - (g) a summary of all issues raised by any person notified of the proposed application in accordance with section 61Z(3) of the 1990 Act and articles 8 and 9(2), including confirmation of whether the issues raised have been addressed and, if so, how; and
  - (h) copies of all responses received from specialist consultees with an explanation of the account taken of each response.