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WELSH STATUTORY INSTRUMENTS

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**2016 No. 59**

The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016

**Amendments relating to pre-application consultation**

4.—(1) After Part 1 insert—

“PART 1A

Pre-application consultation

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

**2B.**—(1) Major development is specified for the purposes of section 61Z(1) of the 1990 Act (Wales: requirement to carry out pre-application consultation).

(2) Proposed section 73 applications and applications to be made under section 73A of the 1990 Act (Planning permission for development already carried out)(**1**) are specified for the purposes of section 61Z(7)(b) of the 1990 Act.

**Publicity before applying for planning permission**

**2C.**—(1) The applicant(**2**) 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 28 days; and
  - (ii) in writing to any owner or occupier of any land adjoining the land to which the proposed application relates; and
- (b) making the following information available for inspection at a location in the vicinity of the proposed development for not less than 28 days beginning with each day on which each of the notices referred to in sub-paragraph (a) or article 2D(2) are given—
  - (i) any documents and particulars or evidence that would be required for a subsequent application, in the same or substantially the same form, to be a valid application except certificates in relation to notices of applications for planning permission required by article 11;
  - (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) in a case to which article 7 applies, the design and access statement; and

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(1) Section 73A was added by section 32 of, and paragraph 16(1) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

(2) See section 61Z(1)(a) of the 1990 Act for the definition of “applicant”.

(v) subject to article 8(2), the particulars or evidence required by the local planning authority under section 62(3) of the 1990 Act(3).

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

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

(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 28 days has elapsed, the applicant will be treated as having complied with the requirements of the relevant paragraph if the applicant has 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 form set out in Schedule 1B or in a form substantially to the like effect.

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

**2D.**—(1) The following persons or descriptions of persons are specified for the purposes of section 61Z(4) of the 1990 Act—

- (a) any community consultees; and
- (b) any specialist consultee.

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

(3) Where an applicant is required to consult a specialist consultees 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 2C(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 2E(1) before an application is submitted.

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

- (a) in relation to a community consultee notice in the form set out in Schedule 1B; and
- (b) in relation to a specialist consultee notice in the form set out in Schedule 1C,

or a form substantially to the like effect.

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

**2E.**—(1) A specialist consultee, consulted in accordance with the provisions of section 61Z(4) of the 1990 Act, must provide a substantive response within 28 days beginning with the day on which the notice referred to in article 2D(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;

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(3) Section 62 was substituted by section 42(1) of the 2004 Act and amended by section 17 of the Planning (Wales) Act 2015. Other amendments are not relevant to this Order.

- (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.

### **Pre-application consultation reports**

**2F.**—(1) Where an applicant has been required to carry out pre-application consultation in accordance with the provisions of section 61Z of the 1990 Act and articles 2C and 2D and submits an application for planning permission, 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 any person 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 2C(1)(a)(i);
- (b) a declaration that the notice referred to in article 2C(1)(a)(i) was displayed in accordance with the requirements of that article;
- (c) a list of the addresses of persons who were given notice of the proposed application in accordance with article 2C(1)(a)(ii) and a copy of the notice given to such persons;
- (d) copies of all notices given to community consultees and specialist consultees in accordance with articles 2D(2) and 2D(3);
- (e) 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 2C and 2D(2), including confirmation of whether the issues raised have been addressed, and, if so, how; and
- (f) copies of all responses received from specialist consultees with an explanation of the account taken of each response.”

(2) In article 8 after paragraph (1)(b) insert—

“(ba) in a case to which article 2F applies, the pre-application consultation report required by that article;”

(3) In article 22 after paragraph (3)(b) insert—

“(ba) in a case to which article 2F applies, the pre-application consultation report required by that article;”

(4) After Schedule 1 insert Schedules 1B and 1C contained in Schedule 1 to this Order.