



# Infrastructure (Wales) Act 2024

2024 asc 3

## PART 5

### DECIDING APPLICATIONS FOR INFRASTRUCTURE CONSENT

#### *Decision maker*

#### **55 Function of deciding applications**

- (1) The examining authority has the function of deciding an application for infrastructure consent for a development of a kind specified in regulations.
- (2) The Welsh Ministers have the function of deciding any other application for infrastructure consent.
- (3) Subsections (1) and (2) are subject to any direction made under subsection (4).
- (4) In relation to an application for infrastructure consent, the Welsh Ministers may direct that—
  - (a) an examining authority has the function of deciding the application instead of the Welsh Ministers;
  - (b) the Welsh Ministers have the function of deciding the application instead of an examining authority.

#### *Statutory policies and other relevant matters*

#### **56 Deciding applications: general considerations**

- (1) In deciding an application for infrastructure consent, the examining authority or the Welsh Ministers (as the case may be) must—
  - (a) have regard to—

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- (i) any infrastructure policy statement that has effect in relation to the kind of development to which the application relates (a “relevant policy statement”),
  - (ii) the National Development Framework for Wales so far as relevant to the kind of development to which the application relates,
  - (iii) any marine plan (within the meaning of section 51(3) of the Marine and Coastal Access Act 2009 (c. 23)) prepared and adopted by the Welsh Ministers so far as relevant to the kind of development to which the application relates, and
  - (b) make their decision or its decision (as the case may be) in accordance with the relevant policy statement, framework or plan unless relevant considerations indicate otherwise.
- (2) The fact that any relevant policy statement, framework or plan identifies a location as suitable (or potentially suitable) for a particular kind of development does not prevent the Welsh Ministers or examining authority (as the case may be) from deciding an application otherwise than in accordance with the relevant policy statement, framework or plan if relevant considerations indicate otherwise.

#### **57 Duty to have regard to specific matters when making decisions on applications**

In deciding an application for infrastructure consent, the examining authority or the Welsh Ministers (as the case may be) must have regard to—

- (a) any local impact report submitted to the Welsh Ministers before the deadline specified under section 36;
- (b) any marine impact report submitted to the Welsh Ministers before the deadline specified under section 37;
- (c) any examination carried out under Part 4;
- (d) any matters specified in regulations in relation to development of the kind to which the application relates;
- (e) the desirability of mitigating, and adapting to, climate change;
- (f) any other relevant consideration.

#### **58 Matters that may be disregarded when making decisions on applications**

- (1) In deciding an application for infrastructure consent, the Welsh Ministers or the examining authority may disregard representations if the Welsh Ministers consider, or the examining authority considers (as the case may be), that the representations—
- (a) are vexatious or frivolous,
  - (b) relate to the merits of policy set out in—
    - (i) an infrastructure policy statement,
    - (ii) the National Development Framework for Wales, or
    - (iii) any marine plan (within the meaning of section 51(3) of the Marine and Coastal Access Act 2009 (c. 23)) prepared and adopted by the Welsh Ministers, or
  - (c) relate to compensation for compulsory acquisition of land or of an interest in or right over land.
- (2) In subsection (1), “representations” includes evidence.
- (3) Regulations may amend subsection (1)—

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- (a) to specify further matters that may be disregarded;
- (b) to change or remove matters specified under paragraph (a).

### *Timetable*

## **59 Timetable for deciding application for infrastructure consent**

- (1) The examining authority or the Welsh Ministers (as the case may be) must decide an application for infrastructure consent before the end of—
  - (a) 52 weeks beginning with the day on which the application is accepted as a valid application, or
  - (b) such other period as the applicant and the Welsh Ministers may agree.
- (2) The Welsh Ministers may, by direction, extend the periods mentioned in subsection (1).
- (3) A direction may be given—
  - (a) more than once in relation to the same application;
  - (b) after the end of the periods mentioned in subsection (1).
- (4) As soon as reasonably practicable after giving the direction, the Welsh Ministers must—
  - (a) notify the applicant and any other person specified in regulations of the direction,
  - (b) publish the direction, and
  - (c) lay a statement about the direction before Senedd Cymru explaining its effect and why it was given.
- (5) The Welsh Ministers must lay before Senedd Cymru annual reports on—
  - (a) their compliance with the duty imposed by subsection (1), and
  - (b) their exercise of the functions conferred by subsection (2).
- (6) Regulations may amend subsection (1)(a).

### *The decision*

## **60 Grant or refusal of infrastructure consent**

- (1) When the Welsh Ministers have decided an application for infrastructure consent, the Welsh Ministers must either—
  - (a) make an order granting infrastructure consent (“an infrastructure consent order”), or
  - (b) refuse infrastructure consent.
- (2) The Welsh Ministers must notify the following of their decision to either make an infrastructure consent order or refuse infrastructure consent—
  - (a) the applicant;
  - (b) any planning authority or community council that has submitted a local impact report to the Welsh Ministers in respect of the application;
  - (c) Natural Resources Wales if it has submitted a marine impact report to the Welsh Ministers in respect of the application;

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- (d) any other person or persons of a description specified in regulations.
- (3) When the examining authority has decided an application for infrastructure consent, they must either—
  - (a) notify the Welsh Ministers of their decision that an infrastructure consent order is to be made, or
  - (b) refuse infrastructure consent.
- (4) The examining authority must notify the following of its decision either that an infrastructure consent order is to be made or to refuse infrastructure consent—
  - (a) the applicant;
  - (b) any planning authority or community council that has submitted a local impact report to the Welsh Ministers in respect of the application;
  - (c) Natural Resources Wales if it has submitted a marine impact report to the Welsh Ministers in respect of the application;
  - (d) any other person or persons of a description specified in regulations.
- (5) When the Welsh Ministers receive a notice under subsection (3)(a), they must make an infrastructure consent order in respect of the application to which the notice relates.
- (6) Regulations may make provision regulating the procedure to be followed if—
  - (a) the Welsh Ministers propose to make an infrastructure consent order on terms which are materially different from those proposed in the application;
  - (b) the Welsh Ministers propose to make an infrastructure consent order on terms which are materially different from those proposed in the application as a result of a notice under subsection (3)(a).

## **61 Development for which infrastructure consent may be granted**

- (1) Infrastructure consent may be granted for development which is—
  - (a) development for which infrastructure consent is required;
  - (b) associated development.
- (2) “Associated development” means development which—
  - (a) is associated with the development within subsection (1)(a) (or any part of it), and
  - (b) is to be carried out wholly in one or both of the following areas—
    - (i) Wales;
    - (ii) the Welsh marine area.
- (3) To the extent that infrastructure consent is granted for associated development, section 20 applies to the development as it applies to development for which infrastructure consent is required.

## **62 Reasons for decision to grant or refuse infrastructure consent**

- (1) When the Welsh Ministers have decided an application for infrastructure consent, they must prepare a statement of their reasons for deciding to—
  - (a) make an infrastructure consent order, or
  - (b) refuse infrastructure consent.

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- (2) When the examining authority have decided an application for infrastructure consent, it must prepare a statement of its reasons for deciding—
  - (a) that an infrastructure consent order is to be made, or
  - (b) to refuse infrastructure consent.
- (3) The examining authority or the Welsh Ministers (as the case may be) must provide a copy of the statement to—
  - (a) the applicant;
  - (b) any planning authority or community council that has submitted a local impact report to the Welsh Ministers in respect of the application;
  - (c) Natural Resources Wales if it has submitted a marine impact report to the Welsh Ministers in respect of the application;
  - (d) any person or person of a description specified in regulations.
- (4) The examining authority or the Welsh Ministers (as the case may be) must publish the statement in such manner as they think, or it thinks, appropriate.