
WELSH STATUTORY INSTRUMENTS

2012 No. 801

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

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of this Order is the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 and it comes into force on 30 April 2012.

(2) This Order applies to all land in Wales, but where land is the subject of a special development order⁽¹⁾, whether made before or after the commencement of this Order, this Order will apply to that land only to such extent and subject to such modifications as may be specified in the special development order.

(3) Nothing in this Order applies to any permission which is deemed to be granted under section 222 of the 1990 Act (planning permission not needed for advertisements complying with regulations).

Interpretation

2.—(1) In this Order—

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990;

“the 2004 Act” (“*Deddf 2004*”) means the Planning and Compulsory Purchase Act 2004;

“access” (“*mynediad*”), in relation to reserved matters, means the accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network and “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

“appearance” (“*ymddangosiad*”) means the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

“building” (“*adeilad*”) includes any structure or erection, and any part of a building, as defined in this article, but does not include plant or machinery or any structure in the nature of plant or machinery;

“dwellinghouse” (“*tŷ annedd*”) does not include a building containing one or more flats, or a flat contained within such a building;

(1) “special development order” means an order made under section 59(3)(b) of the Town and Country Planning Act 1990 (c. 8).

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(2);

“EIA application” (“*cais AEA*”), “EIA development” (“*datblygiad AEA*”), “environmental information” (“*gwybodaeth amgylcheddol*”) and “environmental statement” (“*datganiad amgylcheddol*”) have the same meanings respectively given in regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999(3);

“erection” (“*codi*”), in relation to buildings as defined in this article, includes extension, alteration or re-erection;

“flat” (“*fflat*”) means a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“floor space” (“*arwynebedd llawr*”) means the total floor space in a building or buildings;

“landscaping” (“*tirlunio*”), in relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

“layout” (“*llunwedd*”) means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

“major development” (“*datblygiad mawr*”) means development(4) involving any one or more of the following—

- (a) the winning and working of minerals or the use of land for mineral-working deposits(5);
- (b) waste development;
- (c) the provision of dwellinghouses where—
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

“mining operations” (“*gweithrediadau mwyngloddio*”) means the winning and working of minerals in, on or under land, whether by surface or underground working;

(2) 2000 c. 7; section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(3) S.I. 1999/293, amended by S.I. 2006/3099; there are other amending instruments but none are relevant.

(4) For the definition of “development” see section 55 of the Town and Country Planning Act (c.8).

(5) For the definition of “mineral-working deposit” see section 336 of the Town and Country Planning Act (c.8).

“outline planning permission” (“*caniatâd cynllunio amlinellol*”) means a planning permission for the erection of a building, which is granted subject to a condition requiring the subsequent approval of the local planning authority with respect to one or more reserved matters;

“reserved matters” (“*materion a gedwir yn ôl*”, “*materion a gadwyd yn ôl*”) in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application—

- (a) access;
- (b) appearance;
- (c) landscaping;
- (d) layout; and
- (e) scale, within the upper and lower limit for the height, width and length of each building stated in the application for planning permission in accordance with article 3(4);

“scale” (“*graddfa*”) means the height, width and length of each building proposed within the development in relation to its surroundings;

“by site display” (“*drwy arddangos ar y safle*”) means by the posting of the notice by firm affixture to some object, sited and displayed in such a way as to be easily visible and legible by members of the public; and

“waste development” (“*datblygiad gwastraff*”) means (a) any operational development designed to be used wholly or mainly for the purpose of treating, storing, processing or disposing of refuse or waste materials or (b) material change of use to the treatment, storage, processing or disposal of refuse or waste materials.

(2) In this Order and in relation to the use of electronic communications or electronic storage for any purpose of this Order which is capable of being carried out electronically—

- (a) the expression “address” (“*cyfeiriad*”) includes any number or address used for the purpose of such communications or storage, except that where this Order imposes any obligation on any person to provide a name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address; and
- (b) references to documents, maps, plans, drawings, certificates or other documents, or to copies of such things, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the following purposes—

- (a) fulfilling any requirement in this Order to give or send any application, notice or other document to any other person; or
- (b) lodging an application, certificate or other document referred to in article 22(3) with a local planning authority,

and in those paragraphs, “the recipient” (“*y derbynnnydd*”) means the person mentioned in subparagraph (a) of this paragraph or the local planning authority, as the case may be.

(4) The requirement is not taken to be fulfilled, or (as the case may be) the application or other document is not taken to have been lodged, unless the document transmitted by the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” (“*darllenadwy ym mhob modd perthnasol*”) means that the information contained in the notice or document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next working day; and for this purpose “working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in this Order that any application, notice or other document should be in writing is fulfilled where the document meets the criteria in paragraph (4), and “written” (“*ysgrifenedig*”) and cognate expressions are to be construed accordingly.