

WELSH STATUTORY INSTRUMENTS

2012 No. 801

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

PART 4

Determination

Directions by the Welsh Ministers

18.—(1) The Welsh Ministers may give directions restricting the grant of permission by a local planning authority, either indefinitely or during such a period as may be specified in the directions, in respect of any development or in respect of development of any class so specified.

(2) The Welsh Ministers may give directions that development which is both of a description set out in Column 1 of the Table in Schedule 2 to [^{F1}the EIA Regulations] (descriptions of development and applicable thresholds and criteria for the purposes of the definition of “Schedule 2 development”)^{M1} and of a class described in the direction is EIA development for the purposes of those Regulations.

(3) A local planning authority must deal with applications for planning permission for development to which a direction given under this article applies in such manner as to give effect to the direction.

Textual Amendments

F1 Words in art. 18(2) substituted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567\)](#), reg. 1(2), [Sch. 9 para. 1\(9\)](#) (with regs. 1(4), 55(2)(3), 63, 65)

Marginal Citations

M1 [S.I. 1999/293](#), Column 1 of the Table in Schedule 2 was amended by [S.I. 2006/3099](#) and [2007/2610](#).

Development affecting certain existing and proposed highways

19.—(1) Where an application is made to a local planning authority for planning permission for development which consists of or includes—

- (a) the formation, laying out or alteration of any access to or from any part of a trunk road which is either a special road or, if not a special road, a road subject to a speed limit exceeding 40 miles per hour; or
- (b) any development of land within 67 metres (or such other distance as may be specified in a direction given by the Welsh Ministers under this article) from the middle of—
 - (i) any highway (other than a trunk road) which the Welsh Ministers have provided, or are authorised to provide, in pursuance of an order under Part 2 of the Highways Act

1980 (trunk roads, classified roads, metropolitan roads, special roads)^{M2} and which has not for the time being been transferred to any other highway authority;

- (ii) any highway which the Welsh Ministers propose to improve under Part 5 of that Act (improvement of highways) and in respect of which notice has been given to the authority;
- (iii) any highway to which the Welsh Ministers propose to carry out improvements in pursuance of an order under Part 2 of that Act; or
- (iv) any highway which the Welsh Ministers propose to construct, the route of which is shown on the development plan or in respect of which the Welsh Ministers have given notice in writing to the relevant local planning authority together with maps or plans sufficient to identify the route of the highway,

the authority must notify the Welsh Ministers by sending to the Welsh Ministers a copy of the application and any accompanying plans and drawings.

(2) An application referred to in paragraph (1) must not be determined unless—

- (a) the local planning authority receive a direction given under article 18 (and the authority must then determine the application in accordance with the terms of that direction);
- (b) the authority receive notification by or on behalf of the Welsh Ministers that the Welsh Ministers do not propose to give any such direction in respect of the development to which the application relates; or
- (c) a period of 28 days (or such longer period as may be agreed in writing between the authority and the Welsh Ministers) from the date when notification was given to the Welsh Ministers has elapsed without receipt of such a direction.

(3) The Welsh Ministers may, in respect of any case or any class or description of cases, give a direction specifying a different distance for the purposes of paragraph (1)(b).

(4) In this article—

“proposed highway” (“*priffordd arfaethedig*”) has the same meaning as in section 329 of the Highways Act 1980 (further provision as to interpretation)^{M3};

“special road” (“*ffordd arbennig*”) means a highway or proposed highway which is a special road in accordance with section 16 of the Highways Act 1980 (general provision as to special roads)^{M4}; and

“trunk road” (“*cefnffordd*”) means a highway or proposed highway which is a trunk road by virtue of sections 10(1) (general provision as to trunk roads) or 19 (certain special roads and other highways to become trunk roads) of the Highways Act 1980^{M5} or by virtue of an order or direction under section 10, or any other enactment or any instrument made under any enactment.

Marginal Citations

M2 1980 c. 66.

M3 1980 c. 66.

M4 Section 16 was amended by section 36 of, and paragraphs 21 and 24 of Schedule 2 to, the [Planning Act 2008 \(c. 29\)](#).

M5 Section 19 was amended by section 21 of the [New Roads and Street Works Act 1991 \(c. 22\)](#).

Development not in accordance with the development plan

20. A local planning authority may in such cases and subject to such conditions as may be prescribed by directions given by the Welsh Ministers under this Order grant permission for development which does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated.

Representations to be taken into account

21.—(1) A local planning authority must, in determining an application for planning permission, take into account any representations made, where any notice of or information about the application has been—

(a) given by site display under article 10 or 12, within 21 days [^{F2}, or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case] beginning with the date when the notice was first displayed by site display;

[^{F3}(b) served on or given to—

(i) an owner of the land or a tenant under article 10; or

(ii) an adjoining owner or occupier under article 12,

within 21 days beginning with the date when the notice was served on or given to that person, provided that the representations are made by any person who they are satisfied is such an owner, tenant or occupier; or]

(c) published in a newspaper under article 10 or 12 or on a website under article 12, within the period of 14 days [^{F4}, or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case] beginning with the date on which the notice or information was published,

^{M6}and the representations and periods in this article are representations and periods prescribed for the purposes of section 71(2)(a) of the 1990 Act (consultations in connection with determinations under section 70) .

(2) A local planning authority must give notice of their decision to every person who has made representations which they were required to take into account in accordance with paragraph (1)(b) (i), and such notice is notice prescribed for the purposes of section 71(2)(b) of the 1990 Act.

(3) Paragraphs (1) and (2) apply to applications referred to the Welsh Ministers under section 77 of the 1990 Act (reference of applications to Secretary of State) ^{M7} and to applications made to the Welsh Ministers under section 293A(2) of the 1990 Act (urgent Crown development:application) ^{M8} and paragraphs (1)(b) and (2) apply to appeals to the Welsh Ministers made under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions) ^{M9}, as if the reference to—

(a) a local planning authority were to the Welsh Ministers; and

(b) determining an application for planning permission were to determining such application or appeal, as the case may be.

Textual Amendments

F2 Words in art. 21(1)(a) inserted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567\)](#), reg. 1(2), **Sch. 9 para. 1(10)(a)** (with regs. 1(4), 55(2)(3), 63, 65)

F3 Art. 21(1)(b) substituted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **10(6)** (with art. 15(3))

- F4** Words in art. 21(1)(c) inserted (16.5.2017) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567\)](#), reg. 1(2), **Sch. 9 para. 1(10)(b)** (with regs. 1(4), 55(2)(3), 63, 65)

Marginal Citations

- M6** Section 71 was amended by section 16(2) of, and paragraph 15 of Schedule 7 to, the [Planning and Compensation Act 1991 \(c. 34\)](#).
- M7** Section 77 was amended by section 32 of, and paragraph 18 of Schedule 7 to, the [Planning and Compensation Act 1991 \(c. 34\)](#), and section 40(2)(d) of the 2004 Act.
- M8** Section 293A was inserted by section 82(1) of the 2004 Act.
- M9** Section 78 was amended by section 17(2) of the [Planning and Compensation Act 1991 \(c. 34\)](#) and sections 40(2)(e) and 43(2) of the 2004 Act.

Time periods for decisions

22.—(1) Subject to paragraph (5), where a valid application has been received by a local planning authority, they must within the period specified or referred to in paragraph (2) ^{M10} give the applicant notice of their decision or determination or give notice that the application has been referred to the Welsh Ministers.

[^{F5}(1A) References in paragraph (1) to a valid application include references to that application as amended prior to the local planning authority determining the application.]

(2) The period specified or referred to in this paragraph is—

- (a) the period of eight weeks beginning with the date on which the application was received by the local planning authority;

[^{F6}(aa) in a case to which paragraph (1A) applies, the period of —

- (i) 4 weeks beginning with the date on which the amendment to the application was received by the authority; or
- (ii) 12 weeks beginning with the date on which the application to which the amendment relates is received by the authority

whichever is the later;]

- (b) except where the applicant has already given notice of appeal to the Welsh Ministers, such extended period as may be agreed in writing between the applicant and the authority; or

- (c) where any fee required in respect of an application has been paid by a cheque which is subsequently dishonoured, the appropriate period [^{F7}specified in sub-paragraphs (a), (aa) or (b)] calculated disregarding the period between the date when the authority sent the applicant written notice of the dishonouring of the cheque and the date when the authority are satisfied they have received the full amount of the fee.

(3) In this article “valid application” (“*cais dilys*”) means an application which consists of—

[^{F8}(a) an application which complies with the requirements of article 5;]

- (b) where an application is made in respect of Crown land, the documents required by article 6;

[^{F9}(ba) in a case to which article 2F applies, the pre-application consultation report required by that article;]

- (c) in a case to which article 7 applies, the design and access statement ^{F10} ...;

- (d) in a case to which article 9 applies, the written declaration required by that article;

- (e) the certificate required by article 11;

- (f) subject to paragraph (4), the particulars or evidence required by the local planning authority under section 62(3) of the 1990 Act (applications for planning permission)^{M11}; and
- (g) any 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 such of the documents, particulars or evidence referred to above as are required to be included in or to accompany the application and any fee required have been lodged with the local planning authority.

[^{F11}(3A) An amendment to a valid application must be taken to have been received when the amendment and such of the documents included in or accompanying the amendment and any fee required have been lodged with the local planning authority.]

(4) Paragraph (3)(f) only applies if—

- (a) the application is for major development;
- (b) before the application is made the local planning authority publish, for the purposes of paragraph (3), a list of requirements on their website; and
- (c) the particulars or evidence that the authority require to be included in the application fall within that list.

(5) A local planning authority must provide such information about applications made under article 4 or article 5 (including information as to the manner in which any such application has been dealt with) as the Welsh Ministers may by direction require. Any such direction may include provision as to the persons to be informed and the manner in which the information is to be provided.

(6) Subject to paragraph (7), a local planning authority must not determine an application for planning permission, where any notice of, or information about, the application has been—

- (a) given by site display under article 10 or 12, before the end of the period of 21 days [^{F12}or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case] beginning with the date when the notice was first displayed by site display;

[^{F13}(b) served on or given to—

- (i) an owner of the land or a tenant under article 10, or
- (ii) an adjoining owner or occupier under article 12,

before the end of the period of 21 days beginning with the date when the notice was served on or given to that person; or]

- (c) published in a newspaper under article 10 or 12 or on a website under article 12, within the period of 14 days [^{F14}or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case] beginning with the date on which the notice or information was published,

^{M12}and the periods in this paragraph are periods prescribed for the purposes of section 71(1) of the 1990 Act (consultations in connection with determinations under section 70) .

(7) Where, under paragraph (6), more than one of the prescribed periods applies, the local planning authority must not determine the application before the end of the later or latest of such periods.

Textual Amendments

- F5** Art. 22(1A) inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **11(a)**

- F6** Art. 22(2)(aa) inserted (16.3.2016) by *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **11(b)**
- F7** Words in art. 22(2)(c) substituted (16.3.2016) by *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **11(c)**
- F8** Art. 22(3)(a) substituted (16.3.2016) by *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **13(2)** (with art. 15(5))
- F9** Art. 22(3)(ba) inserted (16.3.2016) by *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **4(3)** (with art. 15(1))
- F10** Words in art. 22(3)(c) omitted (16.3.2016) by virtue of *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **9(3)** (with art. 15(2))
- F11** Art. 22(3A) inserted (16.3.2016) by *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **11(d)**
- F12** Words in art. 22(6)(a) inserted (16.5.2017) by *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (S.I. 2017/567)*, reg. 1(2), **Sch. 9 para. 1(11)(a)** (with regs. 1(4), 55(2)(3), 63, 65)
- F13** Art. 22(6)(b) substituted (16.3.2016) by *The Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59)*, arts. 1(2), **10(7)** (with art. 15(3))
- F14** Words in art. 22(6)(c) inserted (16.5.2017) by *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (S.I. 2017/567)*, reg. 1(2), **Sch. 9 para. 1(11)(b)** (with regs. 1(4), 55(2)(3), 63, 65)

Modifications etc. (not altering text)

- C1** Arts. 22, 23 modified by S.I. 2016/58, reg. 57(2) (as substituted (7.11.2016) by *The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2016 (S.I. 2016/971)*, regs. 1(2), **2** (with reg. 3))
- C2** Art. 22 applied (29.3.2017) by *The Glyn Rhonwy Pumped Storage Generating Station Order 2017 (S.I. 2017/330)*, art. 1, **Sch. 7 para. 4(2)** (with art. 31)

Marginal Citations

- M10** S.I. 1999/293 extends the time period for determination of applications for EIA development.
- M11** Section 62 was substituted by section 42(1) of the 2004 Act.
- M12** Section 71(1) was substituted by section 16(2) of the *Planning and Compensation Act 1991 (c. 34)*.

Applications made under planning condition

23.—^[F15(1)] ^[F16]Where a valid application] has been made to a local planning authority for any consent, agreement or approval required by a condition or limitation attached to a grant of planning permission (other than ^{F17}... an application for approval under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (development by electronic communications code operators) ^{M13}), the authority must give notice to the applicant of their decision on the application within a period of 8 weeks beginning with the date on which the application was received by the authority, or such longer period as may be agreed by the applicant and the authority in writing.

^[F18(2)] For the purpose of calculating the periods referred to in paragraph (1) where any fee required in respect of an application has been paid by a cheque which is subsequently dishonoured, the period between the date when the local planning authority sent 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.

(3) In this article “valid application” (“*cais dilys*”) means an application which consists of—

- (a) an application which includes the information and is accompanied by the documents or other materials required to comply with the terms of the planning permission in question;
- (b) an application which complies with the requirements of article 4 where applicable; and
- (c) any 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 such of the information, documents or other materials referred to above as are required to be included in or to accompany the application and any fee required have been lodged with the local planning authority.

(4) Where the local planning authority consider that any fee required to be paid in respect of the application has not been paid (save for where a cheque is dishonoured and paragraphs (2) and (3) (c) apply) they must, as soon as reasonably practicable, serve a notice on the applicant stating that the application is invalid. The notice must inform the applicant of the amount of the fee required to be paid and how the fee can be paid.

(5) Where the local planning authority consider that section 62ZA(4) of the 1990 Act applies to the application they must, as soon as reasonably practicable, serve a notice on the applicant stating that the application is invalid. The notice given in accordance with section 62ZA(4) of the 1990 Act must inform the applicant of—

- (a) the right of appeal to the Welsh Ministers under section 62ZB of the 1990 Act, and
- (b) the time limit in article 24C(2) within which the applicant must give notice of appeal.]

Textual Amendments

- F15** Art. 23(1): art. 23 renumbered as art. 23(1) (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(3)(c)** (with art. 15(5))
- F16** Words in art. 23 substituted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(3)(a)** (with art. 15(5))
- F17** Words in art. 23 omitted (16.3.2016) by virtue of [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(3)(b)** (with art. 15(5))
- F18** Art. 23(2)-(5) inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **13(3)(d)** (with art. 15(5))

Modifications etc. (not altering text)

- C1** Arts. 22, 23 modified by S.I. 2016/58, reg. 57(2) (as substituted (7.11.2016) by [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/971\)](#), regs. 1(2), **2** (with reg. 3))

Marginal Citations

- M13** [S.I. 1995/418](#). Part 24 of Schedule 2 was substituted by [S.I. 2002/1878](#) (W.187).

Written notice of decision or determination relating to a planning application

24.—(1) When the local planning authority give notice of a decision or determination on an application for planning permission or for approval of reserved matters and a permission or approval is either granted subject to conditions or the application is refused, the notice must—

- (a) state clearly and precisely the full reasons for the refusal or for any condition imposed specifying all policies and proposals in the development plan which are relevant to the decision; and
- (b) where the Welsh Ministers have given a direction restricting the grant of permission for the development for which application is made or where the Welsh Ministers or a United Kingdom Government Department have expressed the view that the permission should not be granted (either wholly or in part) or should be granted subject to conditions, give details of the direction or of the view expressed; and
- (c) be accompanied by a notification in the terms (or substantially in the terms) set out in Schedule 5.

^{F19}(2)

Textual Amendments

F19 Art. 24(2) omitted (16.5.2017) by virtue of [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017 \(S.I. 2017/567\)](#), reg. 1(2), **Sch. 9 para. 1(12)** (with regs. 1(4), 55(2)(3), 63, 65)

^{F20}**Revised notice of decision to grant planning permission**

24A.—(1) Applicants are specified for the purposes of section 71ZA(5) of the 1990 Act.

(2) For the purposes of section 71ZA(6) the details to be included in the revised version of the notice of a decision to grant planning permission are—

- (a) the reference number;
- (b) the date and effect of the decision;
- (c) the name of the body that made the decision; and
- (d) the revision number.]

Textual Amendments

F20 Arts. 24A, 24B inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **12(1)** (with art. 15(4))

^{F20}**Notification of initiation of development and display of notice**

24B.—(1) Planning permission for major development is specified for the purposes of section 71ZB(6) of the 1990 Act.

(2) The notice to be given to a local planning authority before beginning any development to which a relevant planning permission relates, in accordance with section 71ZB(1) of the 1990 Act, must be in the form set out in Schedule 5A or in a form substantially to the like effect.

(3) The notice to be displayed at all times when development to which a relevant planning permission relates is being carried out, in accordance with section 71ZB(2) of the 1990 Act, must—

- (a) be in the form set out in Schedule 5B or in a form substantially to the like effect;
- (b) be firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- (c) be legible and easily visible to the public without having to enter the site; and

(d) be printed on durable material.

(4) Where the notice to be displayed is, without any fault or intention of the person carrying out development, removed, obscured or defaced, the person will be treated as having complied with the requirements of sub-paragraphs (b) and (c) of paragraph (3) if they have taken reasonable steps to protect the notice and, if need be, replace it.]

Textual Amendments

F20 Arts. 24A, 24B inserted (16.3.2016) by [The Town and Country Planning \(Development Management Procedure\) \(Wales\) \(Amendment\) Order 2016 \(S.I. 2016/59\)](#), arts. 1(2), **12(1)** (with art. 15(4))

Changes to legislation:

There are currently no known outstanding effects for the The Town and Country Planning (Development Management Procedure) (Wales) Order 2012, PART 4 .