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WELSH STATUTORY INSTRUMENTS

2015 No. 1598 (W197)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Local Development Plan) (Wales) (Amendment) Regulations 2015

<i>Made</i>	- - - -	<i>3 August 2015</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>7 August 2015</i>
<i>Coming into force</i>	- -	<i>28 August 2015</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 62, 63, 69, 77 and 122 of the Planning and Compulsory Purchase Act 2004⁽¹⁾.

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the Town and Country Planning (Local Development Plan) (Wales) (Amendment) Regulations 2015 and they come into force on 28 August 2015.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

- (a) the “2005 Regulations” (“*Rheoliadau 2005*”) means The Town and Country Planning (Local Development Plan) (Wales) Regulations 2005⁽²⁾; and
- (b) any reference to a section is a reference to a section of the Planning and Compulsory Purchase Act 2004, unless otherwise stated.

Amendment of the 2005 Regulations

2.—(1) The 2005 Regulations are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) omit the definition of “by local advertisement” (“*drwy hysbyseb leol*”);

(1) [2004 c.5](#); section 62(5)(d) was substituted for paragraphs (d) and (e) by section 51(2) of, and paragraphs 4 and 5 of Schedule 2 to the Local Government (Wales) Measure 2009; section 62(7) was substituted by section 51(2) of, and paragraphs 4 and 6 of Schedule 2 to the Local Government (Wales) Measure 2009.

(2) [S.I. 2005/2839 \(W. 203\)](#), as amended by [S.I. 2011/971 \(W. 141\)](#) and [S.I. 2013/755 \(W. 90\)](#).

- (b) in the definition of “deposit matters” (“*materion adneuo*”)—
- (i) in sub-paragraph (b), for “regulation 16(2)(a)”, substitute “regulation 18 or 26C”; and
 - (ii) in sub-paragraph (c), for “regulation 18”, substitute “regulation 18 or 26C, as the case may be”;
- (c) in the definition of “initial consultation report” (“*adroddiad ymgynghori cychwynnol*”), for “16”, substitute “
- “16A or regulation 26A(4), whichever is required”;
- (d) in the definition of “LDP documents” (“*dogfennau CDLI*”), after paragraph (d), insert—
- “(e) any relevant review report;
 - (f) any candidate sites register”;
- (e) in the definition of “pre-deposit proposals documents” (“*dogfennau cynnigion cyn-adneuo*”), after “made explicit”, insert “the candidate sites register and any review report.”;
- (f) omit the definitions of “site allocation policy” (“*polisi dyrannu safle*”) and “site allocation representation” (“*sylw ar ddyraniad safle*”);
- (g) in the definition of “specific consultation bodies” (“*cyrff ymgynghori penodol*”)—
- (i) for “(i) to (viii)”, substitute “(a) to (g)”; and
 - (ii) before paragraph (c) insert
 - “(b) Network Rail Infrastructure Limited.”;
- (h) at the appropriate places in alphabetical order insert—
- “(i) “candidate sites register” (“*cofrestr y safleoedd ymgeisiol*”) means the list of sites prepared in accordance with regulation 14(4) or 26A(8);”
 - “(ii) “emerging LDP” (“*CDLI sydd wrthi’n ymddangos*”) means—
 - (a) a document proposed as an LDP, made available pursuant to regulations 15, 17 or 22(1);
 - (b) a document proposed as a revision of an LDP made available pursuant to regulations 15, 17, 22(1) or 26B,

in either case which has not been adopted either by the LPA under section 67, or approved by the Welsh Minsters under section 65 or 71(4);”
 - “(iii) “review report” (“*adroddiad adolygu*”) means a report prepared pursuant to section 69 or regulation 41(4).”
- (3) For paragraph (1) of regulation 3 (scope of regulations), substitute—
- “(1) These Regulations have effect in relation to the revision of an LDP as they apply to the preparation of an LDP, except—
- (a) regulations 5 and 7 which do not apply to the revision of an LDP;
 - (b) where an LPA proceeds in accordance with Part 4A, Part 4 does not apply other than to the extent specified in Part 4A;
 - (c) where an LPA proposes to revise its LDP and proceeds in accordance with Part 4, Part 4A does not apply.”
- (4) In regulation 5 (community involvement scheme preparation), for “section 63(3)(a)”, substitute “section 63(7)(a)”.
- (5) In regulation 9 (delivery agreement)—

- (a) in paragraph (1), for “must, in addition, be-” to the end of sub-paragraph (b), substitute “must be approved by resolution of the LPA and then submitted to the Welsh Ministers for their agreement.”;
- (b) for paragraph (4), substitute “Until such time as the Welsh Ministers agree the delivery agreement, the LPA must not take any steps under regulation 15 or 26A.”;
- (c) after paragraph 9(4), insert—
 - “(4A) The LPA must notify—
 - (a) the specific consultation bodies; and
 - (b) such of the general consultation bodies as the LPA considers appropriate, as soon as reasonably practicable after a revision to a delivery agreement is agreed or deemed to be agreed under paragraph (3).”;
- (d) after paragraph (5), insert—
 - “(6) The LPA does not need to comply with a particular requirement of its community involvement scheme if it has reasonable grounds to believe that it is not likely to prejudice any person’s opportunity to be involved in the exercise of the LPA’s functions under Part 6 of the Act if it does not comply with that requirement.”
- (6) In regulation 10 (availability of a delivery agreement), in paragraph (2), for “LDP”, substitute “LPA”.
- (7) In regulation 11 (form and content of LDP), in paragraph (b)—
 - (a) in sub-paragraph (i), omit “and”; and
 - (b) for sub-paragraph (ii), substitute—
 - “(ii) the date of the expiry of the period in relation to which the LDP has been prepared by the LPA; and
 - (iii) where it is an emerging LDP, the stage reached and date of its publication.”
- (8) In regulation 13 (LDP: additional matters to which regard to be had), for paragraph (f), substitute “any marine plan adopted and published by the Welsh Ministers under Part 3 of the Marine and Coastal Access Act 2009(3) which affects any part of the LPA’s area;”
- (9) Before “PART 4 LDP PROCEDURE”, insert—
 - “**13A.** Where an LPA proposes to revise its LDP and it appears to it that the issues involved are not of sufficient significance to justify undertaking the full procedure for preparing a revision to an LDP as set out in regulations 14 to 16, they may proceed in accordance with Part 4A instead of Part 4.”
- (10) In regulation 14—
 - (a) renumber the existing paragraph as sub-paragraph (1); and
 - (b) after sub-paragraph (1), insert—
 - “(2) Before an LPA complies with regulation 15, it must request nominations for sites proposed to be included in the LDP.
 - (3) The LPA must—
 - (a) publish the request for nominations on its website and by such other means as it considers appropriate; and
 - (b) state in its request the date by which such nominations must be received by the LPA.

(4) The LPA must prepare a list of all the sites nominated.

(5) The LPA must consider any sites nominated before determining the content of the LDP deposited in accordance with regulation 17. ”

(11) In regulation 15 (pre-deposit public consultation)—

- (a) omit “and” after paragraph (c)(iv), ; and
- (b) omit paragraph (d).

(12) After regulation 16, insert—

“Initial consultation report

16A. The LPA must prepare a report which must set out—

- (a) which bodies it has engaged, notified or consulted pursuant to regulations 14 and 15;
- (b) a summary of the main issues raised in, and responses from, those engagements, notifications and consultations;
- (c) in relation to the LDP to be deposited in accordance with regulation 17—
 - (i) how those main issues have been addressed; and
 - (ii) the extent to which those responses have been addressed;
- (d) the total number of representations received pursuant to regulation 16; and
- (e) any deviation from the community involvement scheme.”

(13) In regulation 17 (deposit of proposals)—

- (a) in paragraph (a), for “LDP matters”, substitute “deposit matters”;
- (b) in paragraph (c)(vi), omit “and”; and
- (c) omit paragraph (d).

(14) For regulation 18 (representations on deposit proposals of LDPs), substitute—

“A person may make representations about an LDP by sending them to the address and person (if any) specified in the deposit matters, within the period of 6 weeks, starting on the day on which the LPA has complied with regulation 17(a) and (c).”

(15) In regulation 19 (handling of representations: deposit), omit paragraph (1).

(16) Omit regulations 20 (handling of representations: site allocation representations) and 21 (representations on a site allocation representation).

(17) In regulation 22 (submission of LDP to the National Assembly)—

- (a) in paragraph (1), for “regulations 18 and 21”, substitute “regulation 18”;
- (b) in sub-paragraph (2)(c)(i) for “regulations 14, 15, 17 and 20”, substitute “regulations 14, 15 and 17”;
- (c) at the beginning of sub-paragraph (2)(c)(iii), insert “in respect of the main issues raised under regulation 16,”;
- (d) in sub-paragraph (2)(c)(iv), for “regulation 16, 18 and 21”, substitute “regulations 16 and 18”;
- (e) in sub-paragraphs (2)(c)(v) and (vi), for “regulations 18 and 21”, substitute “regulation 18”;
- (f) in paragraph (2), after sub-paragraph (c), insert—
 - “(ca) any relevant review report;
 - (cb) any candidate sites register;”;

- (g) in paragraph (d), for “regulations 18 and 21”, substitute “regulation 18”; and
 - (h) omit paragraph (5)(b).
- (18) In regulation 23 (independent examination)—
- (a) in paragraph (1), for “before the opening of an independent examination under section 64,”, substitute “before the start of the first hearing under section 64(6),”;
 - (b) in sub-paragraph (1)(b), for “or 21 of those matters; and”, substitute “of those matters.”;
 - (c) omit sub-paragraph (1)(c);
 - (d) in sub-paragraph (2)(a), for “examination”, substitute “hearing”; and
 - (e) in paragraph (3), for “regulations 18 and 21”, substitute “regulation 18”.
- (19) In regulation 25 (adoption of an LDP)—
- (a) in paragraph (2), for “When the LPA adopts an LDP, at the same time it must-,”, substitute “As soon as reasonably practicable after the LPA adopts an LDP, it must—”;
 - (b) omit sub-paragraph (2)(c); and
 - (c) after paragraph (2), insert—
 - “(3) Where an LDP is adopted by resolution of the LPA or is approved by the Welsh Ministers under section 65 or 71, it supersedes any existing LDP which ceases to have effect.”
- (20) After regulation 25, insert—

“Adoption of revisions to LDP

25A.—(1) The LPA may adopt a revised LDP, with revisions as originally prepared, if the person appointed to carry out the independent examination under section 64(4) so recommends.

(2) The LPA may adopt a revised LDP with modified revisions if the person appointed to carry out the independent examination under section 64(4) so recommends.”

- (21) In regulation 26 (withdrawal of an LDP)—
- (a) omit paragraph (b);
 - (b) in paragraph (d), omit “, and 20(2)(a) and (b)”;
 - (c) in paragraph (e), for “regulation 18 or 21”, substitute “regulation 18”.
- (22) After the end of Part 4, insert the following—

“PART 4A

Short form procedure for revisions not of sufficient significance

Pre-deposit requirements

26A.—(1) Before the LPA complies with regulation 26B (deposit of proposed revision), it must, for the purpose of determining the scope of the proposed revision and of generating alternative options—

- (a) notify each of the bodies or persons specified in paragraph (2) of the subject of the revision to the LDP which the LPA proposes to prepare and of the review report; and
 - (b) invite each of them to make representations to the LPA about what a revision should include.
- (2) The bodies or persons referred to in paragraph (1) are—

- (a) such of the specific consultation bodies as the LPA considers may have an interest in the proposed revision; and
 - (b) such of the general consultation bodies as the LPA considers appropriate.
- (3) An LPA must consider any representations made in accordance with paragraph (1) before finally determining the content of the proposed revision to be made available under regulation 26B.
- (4) The LPA must prepare a report of what it has done pursuant to paragraph (1).
- (5) Regulation 16A applies to that report as if—
- (a) references to regulations 14, 15 or 16 were to this regulation; and
 - (b) references to the LDP deposited in accordance with regulation 17, were to the proposed revision deposited in accordance with regulation 26B.
- (6) Before the LPA complies with regulation 26B, if the proposed revision includes land identified for development, it must request nominations for sites proposed to be included in the proposed revision.
- (7) The LPA must—
- (a) publish the request for nominations on its website and by such other means as it considers appropriate; and
 - (b) state in its request the date by which such nominations must be received by the LPA.
- (8) The LPA must prepare a list of all the sites nominated.
- (9) The LPA must consider any sites nominated before determining the content of the revision deposited in accordance with regulation 26B.

Deposit of proposed revision

26B. The LPA must—

- (a) make copies of the LDP documents, and a statement of the deposit matters, available for inspection during normal office hours at—
 - (i) its principal office; and
 - (ii) such other places within its area as the LPA considers appropriate;
- (b) publish on its website—
 - (i) the LDP documents;
 - (ii) the deposit matters; and
 - (iii) a statement of the fact that the LDP documents are available for inspection and of the places and times at which they can be inspected; and
- (c) send to each of the bodies identified under regulation 26A(2), copies of—
 - (i) the deposit LDP revision;
 - (ii) the sustainability appraisal report;
 - (iii) the initial consultation report;
 - (iv) a list of such supporting documents as in the opinion of the LPA are relevant to the preparation of the LDP revision;
 - (v) notice of the deposit matters; and
 - (vi) the statement referred to in paragraph (b)(iii).

Representations on deposit proposals of revision to LDPs

26C. A person may make representations about a proposed revision to an LDP by sending them—

- (a) to the address and person (if any) specified in the deposit matters,
- (b) within the period of 6 weeks, starting on the day on which the LPA has complied with regulation 26B(a) and (c).

Handling of representations: deposit of revision

26D.—(1) As soon as reasonably practicable after the LPA has received a representation on a proposed revision to an LDP under regulation 26C, it must—

- (a) make a copy of the representation available at the places at which the LDP documents were made available under regulation 26B(a);
- (b) where practicable, publish on its website details of all representations received together with a statement that the representations are available for inspection at the places referred to in regulation 26B(a).

(2) An LPA need not comply with paragraph (1) if the representation is made after the period specified in regulation 26C.

Application of regulations 22 to 26 (Submission, independent examination, publication of recommendations, adoption and withdrawal)

26E.—(1) Regulations 22 to 26 apply to a revision which proceeds in accordance with this Part as they would to the preparation of an LDP, but read in accordance with the following provisions.

(2) References—

- (a) to regulations 14, 15 or 16 are to be read as references to regulation 26A;
- (b) to regulation 17, are to be read as references to regulation 26B;
- (c) to regulation 18 are to be read as references to regulation 26C; and
- (d) to the LDP are to be read as references to the LDP revision, except in regulation 25;
- (e) in regulation 22(2)(c)(i), the reference to “consulted” is to be read as a reference to “notified”;
- (f) in regulations 22(5)(c), 24(2)(a) and 25(2)(a) to the places at which the pre-deposit proposals documents were made available under regulation 15 are to be read as references to the places at which the LDP documents were made available under regulation 26B(a); and
- (g) in regulation 26 to—
 - (i) regulation 15(c) are to be read as a reference to regulation 26A(1);
 - (ii) regulation 17(a) and (b) are to be read as a reference to regulation 26B(1)(a) and (b);
 - (iii) regulation 19(2)(a) and (b) are to be read as references to 26D(1)(a) and (b).”

(23) In—

- (a) regulation 28 (direction not to adopt an LDP) in paragraph (2)(a);
- (b) regulation 29 (direction to modify an LDP) in paragraph (a);
- (c) regulation 31 (changes proposed by the National Assembly to an LDP (call-in)) in paragraph (2)(a); and

(d) regulation 33 (publication of the recommendations of the person appointed to carry out the independent examination (call-in)) in paragraph (a), after “made available under regulation 15” in each place where it occurs, insert “or 26B as the case may be”.

(24) In regulation 30 (section 65(4) directions (call-in)) for paragraphs (2) to (4), substitute—

“(2) If the direction is given before the LPA submits the LDP under section 64(1) the LPA must—

- (a) comply with section 62(6) unless it has already done so;
- (b) make the direction available for inspection during normal office hours at the places at which the pre-deposit proposals documents were made available under regulation 15 or the LDP documents were made available under regulation 26B as the case may be;
- (c) publish the direction on its website;
- (d) subject to any necessary modification and to paragraph (4), comply with the regulations cited in paragraph (3) as if it were preparing the LDP.

(3) The regulations referred to in paragraph (2)(d) are regulations 15 to 19, or 26A to 26D, as the case may be.

(4) Nothing in paragraph (2)(d) requires an LPA to repeat any step taken before receipt of the direction.”

(25) In regulation 31—

- (a) in paragraph (2), immediately after sub-paragraph (b), insert “and”;
- (b) in paragraph (2)(c) omit “and”; and
- (c) omit sub-paragraph (2)(d).

(26) In regulations 33(a) and 34(a), for “pre-submission proposals documents”, substitute “pre-deposit proposals”.

(27) In regulation 34—

- (a) in sub-paragraph (a), after “made available under regulation 15(a)”, insert “or regulation 26B as the case may be”;
- (b) immediately after sub-paragraph (b), insert “and”; and
- (c) omit sub-paragraph (c).

(28) In regulation 39(5)—

- (a) omit “and;” after sub-paragraph (c); and
- (b) omit paragraph (d).

(29) For regulation 41, substitute the following.

“(1) For the purposes of section 69(1), the LPA must commence a review of its LDP at intervals not longer than every four years from the later of—

- (a) the date of the first adoption of the LDP; or
- (b) the date of the last adoption of the LDP following a review under section 69(1).

(2) Before it prepares a revision of an LDP, an LPA must review its LDP.

(3) For the purposes of paragraph (2), such a review may be either a review under section 69(1) or a selective review.

(4) The LPA must report to the Welsh Ministers on the findings of a selective review.

(5) An LPA must approve by resolution a report of a review prepared in accordance with section 69(1) before it submits it to the Welsh Ministers in accordance with section 69(2).

(6) An LPA must approve by resolution a report of a selective review and submit the approved report to the Welsh Ministers.

(7) As soon as reasonably practicable after a review report has been approved by resolution of the LPA in accordance with paragraph (5) or (6), the LPA must—

- (a) publish the review report on its website; and
- (b) make copies available at its principal office and at other places that the LPA considers appropriate.

(8) For the purposes of this regulation “selective review” means a review of part or parts of an LDP.”

Transitional and saving provision

3.—(1) If an LPA has received a site allocation representation under regulation 18 of the 2005 Regulations but has not complied with any part of regulation 20 of the 2005 Regulations (handling of representations: site allocation representations) before 28 August 2015, regulation 19(2) of the 2005 Regulations applies to those site allocation representations.

(2) If an LPA has complied with any part of regulation 20 of the 2005 Regulations (handling of representations: site allocation representations) before 28 August 2015, in relation to the preparation or revision of an LDP, the amendment made by regulation 2(16) (removal of site allocation representations stage) does not apply to the preparation of that LDP and the LPA must comply with regulations 20 and 21 of the 2005 Regulations.

(3) If an LPA has complied with regulation 14 of the 2005 Regulations (pre-deposit public consultation) before 28 August 2015, in relation to the preparation or revision of an LDP, it may decide to proceed under Part 4A of the 2005 Regulations and it may omit the steps required by regulation 26A(1) and (2).

(4) If an LPA decides to proceed in accordance with paragraph (3)—

- (a) regulation 26A(3) applies as if the reference to representations made in accordance with paragraph 1 were to representations made in response to steps taken under regulation 14; and
- (b) regulation 26A(4) applies as if the reference to representations made under regulation 26A were to representations made in response to steps taken under regulation 14.

(5) If, before the commencement of these Regulations, the LPA has submitted a review report to the Welsh Ministers in connection with a proposed revision to its LDP—

- (a) it is treated as if it had complied with the requirements of regulation 41(5) and (6) of the 2005 Regulations; and
- (b) if it has not already done so, it must comply with regulation 41(7) as soon as reasonably practicable, as if the review report had been approved by resolution of the LPA in accordance with paragraph (5) or (6) of regulation 41 of the 2005 Regulations.

Carl Sargeant
Minister for Natural Resources, one of the Welsh
Ministers

3 August 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 6 of the Planning and Compulsory Purchase Act 2004 (c. 5) (“the Act”) provides for a system of local development plans (“LDPs”) in Wales.

These Regulations amend the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005 (S.I. 2005/2839) (“the 2005 Regulations”) which make provision in connection with the operation of that system.

The main changes made by these Regulations are as follows.

Regulation 2(2)(h)(i) inserts a definition of a candidate sites register and regulation 2(2)(h)(iii) inserts a definition of a review report so that both can be included in the definition of LDP documents (as amended by regulation 2(2)(d)). These are required to be made available under regulation 17 and regulation 26B (deposit of proposals).

Regulation 2(2)(g)(ii) amends the definition of “specific consultation bodies” to add Network Rail Infrastructure Limited to the list of bodies who must be consulted under regulations 14 and 26A.

The effect of regulation 2(3) is that there is no requirement to engage consultees in the preparation of a community involvement scheme nor a timetable where those documents relate to a revision of an LDP.

Regulation 2(5)(c) inserts a requirement for the local planning authority (“LPA”) to notify certain consultees as soon as reasonably practicable after a revision to a delivery agreement is agreed or deemed to be agreed.

Regulation 2(5)(d) prescribes the circumstances in which the LPA need not comply with the requirements of the community involvement scheme.

Regulation 2(7) makes changes to the information required in the sub-title of the LDP.

Regulation 2(8) adds any marine plan prepared by the Welsh Ministers to the list of matters to which the LPA must have regard in preparing an LDP. This is in addition to the matters already specified in sections 39 and 62(5) of the Act and in regulation 13. The reference to obsolete regional waste plans in that regulation is also omitted.

Regulation 2(9) and 2(22) provide for a new short form procedure for revisions to LDPs. The new procedure is for use where the issues involved are not of sufficient significance to warrant the full procedure which also applies when preparing an initial or replacement LDP. The short form procedure is in a new Part 4A to the 2005 Regulations. Instead of pre-deposit participation involving statutory bodies there is a requirement on the LPA to notify such bodies of the subject of a proposed revision and the review report preceding it and to invite representations about what a revision should include. There is no requirement in the short form procedure on the LPA to conduct pre-deposit public consultation.

Regulation 2(10) requires LPAs to make a call for candidate sites which can be considered for inclusion in the LDP. LPAs must also compile a candidate sites register to reflect nominations received.

Regulation 2(12) inserts a requirement on the LPA to prepare a report of the notifications made and representations made under regulations 14 to 16. This is the report defined as the “initial consultation report”.

Regulation 2(16) removes the procedures in regulations 20 and 21 of the 2005 Regulations relating specifically to handling site allocation representations, so that such representations are handled in the same way as any other representations.

Regulation 2(19)(c) makes provision so that where an LDP is adopted or approved it automatically supersedes the existing LDP.

Regulation 2(20) inserts a new regulation 25A in the 2005 Regulations to enable the LPA to adopt a revised LDP either with revisions as prepared or as modified, depending on the recommendation of the person appointed to carry out the independent examination of the proposed revisions.

Regulation 2(24) amends regulation 30 of the 2005 Regulations so that if the Welsh Ministers give a direction under section 65(4) of the Act, it is the LPA's responsibility to prepare an appraisal of the sustainability of the LDP or revision if it has not already done so.

Regulation 2(29) makes provision requiring a review report to be prepared before any revision of an LDP. Such a report may be the full review report required under section 69(2) of the Act or a report of a selective review of part (or parts) of the LDP. Minor and consequential amendments are made by other paragraphs of regulation 2, including omitting all requirements to publicise matters by advertisement in a local newspaper.

Regulation 3 makes transitional and saving provision.

A regulatory impact assessment has been prepared in relation to these Regulations. Copies are available from the Welsh Government at Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government's website at www.wales.gov.uk.