
WELSH STATUTORY INSTRUMENTS

2012 No. 793

The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012

Title, commencement and application

1.—(1) The title of these Regulations is the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 and they come into force on 30 April 2012.

(2) These Regulations apply to Wales.

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990; and

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

(2) In these Regulations, in relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

(a) the expression “address” (“*cyfeiriad*”) includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to another person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address;

(b) references to forms, plans, notices and other documents, or to copies of such documents, 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 purpose of fulfilling any requirement in these Regulations to give or send any form, plan, notice or other document to any other person.

(4) The requirement must be taken to be fulfilled where the form, plan, notice or other document transmitted by means of 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” (“*yn ddarllenadwy ym mhob manylyn o bwys*”) means that the information contained in the form, plan, notice or other 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 outside the recipient’s business hours, it must be taken to have been received on the next working day; and for this purpose and the purposes

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

of paragraph (2) of regulation 8, “working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4), and “written” (“*yn ysgrifenedig*”) and cognate expressions are to be construed accordingly.

Applications for listed building consent or for conservation area consent

3.—(1) Subject to paragraph (7), an application for listed building consent or conservation area consent must—

- (a) be made in writing to a local planning authority on a form published by the Welsh Ministers (or a form to substantially the same effect);
- (b) include the particulars specified or referred to in the form; and
- (c) be accompanied, whether electronically or otherwise, by—
 - (i) such plans, drawings and information as are necessary to describe the works which are the subject of the application;
 - (ii) except where the application is made by electronic communication or the local planning authority indicate that fewer are required, 3 copies of the form; and
 - (iii) except where they are submitted by electronic communication or the local planning authority indicate that fewer are required, 3 copies of any plans, drawings or information accompanying the application referred to in paragraph (i).

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

(3) When the local planning authority with whom the application has to be lodged receive—

- (a) an application which complies with the requirements of paragraph (1);
- (b) the certificate required by regulation 7;
- (c) in a case to which regulation 6 applies, the design and access statement;

the authority must, as soon as is reasonably practicable, send to the applicant an acknowledgement in the terms (or substantially in the terms) set out in Part 1 of Schedule 1.

(4) Where, after sending an acknowledgement as required by paragraph (3), the local planning authority form the opinion that the application is invalid they must, as soon as is reasonably practicable, notify the applicant that the application is invalid.

(5) Where a valid application under paragraph (1) has been received by a local planning authority, the time within which the authority must give notice to the applicant of their decision or of the reference of the application to the Welsh Ministers is a period of 8 weeks beginning with the date the application and the certificate under regulation 7 are lodged with the authority or (except where the applicant has already given notice of appeal to the Welsh Ministers) such other period as may at any time be agreed upon in writing between the applicant and the authority.

(6) Every such notice of decision or reference to the Welsh Ministers must be in writing and where the local planning authority decide to grant listed building consent or conservation area consent subject to conditions or to refuse it, the notice must state the reasons for the decision and must be accompanied by a notification in the terms (or substantially in the terms) set out in Part 2 of Schedule 1.

(7) An application for listed building consent or conservation area consent or an application to vary or discharge conditions attached to a listed building consent or conservation area consent made on or after 30 April 2012 and before 31 May 2012, otherwise than by a local planning authority, may

be made in writing on a form devised by the local planning authority and must be accompanied by two further copies of the form, plans and drawings.

Applications to vary or discharge conditions attached to listed building consent or conservation area consent

4.—(1) An application to a local planning authority for the variation or discharge of conditions attached to a listed building consent or conservation area consent granted in respect of that building must be made in accordance with regulation 3(1).

(2) Paragraphs (3) to (6) of regulation 3 have effect in relation to an application under this regulation as they have effect in relation to an application under regulation 3(1), except that for the reference in regulation 3(6) to a notification in the terms set out in Part 2 of Schedule 1, there is substituted reference to a notification in the terms set out in Part 3 of that Schedule.

Application for listed building or conservation area consent in respect of Crown land

5. The following provisions of these Regulations, in their application to the making and determination of applications for listed building consent and conservation area consent in respect of Crown land, have effect subject to the following modifications—

- (a) in regulation 3(3)(b), for “the certificate required by regulation 7” substitute “the certificate or other document required by regulation 7”;
- (b) in regulation 7—
 - (i) in paragraph (1) after “accompanied by” insert “the documents described in paragraph (1A) or”, and
 - (ii) after paragraph (1) insert—

“(1A) An application for listed building or conservation area consent in respect of Crown land must be accompanied by—

 - (a) a statement that the application is made in respect of Crown land; and
 - (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.”

Design and access statements

6.—(1) Any application to a local planning authority for listed building consent must be accompanied by a statement (“a design and access statement”) explaining—

- (a) the design principles and concepts that have been applied to the works; and
 - (b) subject to paragraph (4), how issues relating to access to the building have been dealt with.
- (2) A design and access statement must, in relation to design—
- (a) explain the design principles and concepts that have been applied to the following aspects of the works—
 - (i) appearance;
 - (ii) environmental sustainability;
 - (iii) layout; and
 - (iv) scale; and
 - (b) explain how the principles and concepts referred to in sub-paragraph (a) take account of—
 - (i) the special architectural or historic importance of the building;

- (ii) the particular physical features of the building that justify its designation as a listed building; and
 - (iii) the building's setting.
- (3) Subject to paragraph (4), a design and access statement must, in relation to access, explain—
- (a) the policy or approach adopted as to access, including—
 - (i) what alternative means of access have been considered; and
 - (ii) how policies relating to access in the development plan⁽²⁾ have been taken into account;
 - (b) how the policy or approach adopted as to access takes account of—
 - (i) the special architectural or historic importance of the building;
 - (ii) the particular physical features of the building that justify its designation as a listed building; and
 - (iii) the building's setting;
 - (c) how any specific issues which might affect access to the building have been addressed; and
 - (d) how features which ensure access to the building will be maintained.
- (4) Paragraphs (1)(b) and (3) do not apply in relation to an application for listed building consent to carry out works affecting only the interior of a building.
- (5) In this regulation—
- “appearance” (“*yddangosiad*”), in relation to the works and the building to which the works relate, means the aspects of the works and the building which determine the visual impression they make, including the external built form of the works and the building, their architecture, features, materials, decoration, lighting, colour and texture;
- “layout” (“*cynllun*”) means the way in which the works are situated and orientated in relation to the building to which the works relate and to other buildings, routes and spaces; and
- “scale” (“*graddfa*”) means the extent and dimensions of the works in relation to the building and its surroundings.

Certificate to accompany applications and appeals

7.—(1) A local planning authority must not entertain any application under regulation 3 or 4 unless it is accompanied by one of the following certificates signed by or on behalf of the applicant—

- (a) a certificate stating that, at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of the building or any part of it;
- (b) a certificate stating that the applicant has given the requisite notice of the application to all persons (other than the applicant) who at the beginning of that period were owners of the building or any part of it, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;
- (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either sub-paragraphs (a) or (b), that the applicant has given the requisite notice of the application to such one or more of the persons mentioned in sub-paragraph (b) as are specified in the certificate (setting out their names, the addresses at which notice of the

(2) See sections 38 and 62 of the 2004 Act; the transitional provisions in article 3 of the Planning and Compulsory Purchase Act 2004 (Commencement No. 6, Transitional Provisions and Savings) Order 2005 (S.I. 2005/2847) and the transitional provisions of Part III of Schedule 5 to, the Local Government (Wales) Act 1994 (c. 19).

application was given to them respectively, and the date of service of each such notice), that the applicant has taken such steps as are reasonably open to them (specifying the steps taken) to ascertain the names and addresses of the remainder of those persons and that the applicant has been unable to do so;

- (d) a certificate stating that the applicant is unable to issue a certificate in accordance with sub-paragraph (a), that the applicant has taken such steps as are reasonably open to them (specifying the steps taken) to ascertain the names and addresses of the persons mentioned in sub-paragraph (b) but has been unable to do so.

(2) Any such certificate as is mentioned in paragraph (1)(c) or paragraph (1)(d) must also contain a statement that the requisite notice of the application, as set out in the certificate, has been on a date specified in the certificate (which must not be earlier than the beginning of the period mentioned in paragraph (1)(a)) published in a local newspaper circulating in the locality in which the building is situated.

(3) Where an application under regulation 3 or 4 is accompanied by such a certificate as is mentioned in paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d), the local planning authority—

- (a) must not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or, if later, the date of publication of a notice as so mentioned;
- (b) must in determining the application take into account any representations relating to it which are made to them before the end of that period by any person who satisfies them that the person is an owner of the building or any part of it; and
- (c) must give notice of their decision to every person who has made representations which they were required to take into account in accordance with sub-paragraph (b).

(4) For the purposes of this regulation, “owner” (*“perchennog”*) means a person who is for the time being the estate owner in respect of the fee simple or is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

(5) The provisions of this regulation will apply, with any necessary modifications, where an application under regulation 3 or 4 is referred (or is deemed to have been referred) to the Welsh Ministers under section 12(3) of the Act or, in relation to an appeal to the Welsh Ministers under sections 20 or 21 of the Act, as they apply in relation to an application which falls to be determined by the local planning authority.

(6) The provisions of this regulation will apply where an application for listed building consent is made to the Welsh Ministers under section 82B(2)(4) of the Act, as they apply in relation to an application which falls to be determined by the local planning authority with the following modifications—

- (a) in paragraph (1) for “A local planning authority must not entertain any application under regulation 3 or 4” substitute “The Welsh Ministers must not entertain any application under section 82B(2) of the Act”;
- (b) omit paragraph (3).

(7) A certificate issued for the purposes of this regulation must be in the form published by the Welsh Ministers, or in a form substantially to the like effect.

(8) The requisite notices for the purposes of this regulation in relation to applications must be in the forms set out in Part 1 of Schedule 2.

(9) The requisite notices for the purposes of this regulation in relation to appeals must be in the forms set out in Part 2 of Schedule 2.

(3) Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42).

(4) Section 82B was inserted by section 83 of the Planning and Compulsory Purchase Act 2004 (c. 5).

Use of electronic communications

8.—(1) Paragraph (2) of this regulation applies where an electronic communication is used for the purpose of making an application—

- (a) under regulation 3; or
- (b) under regulation 4.

(2) The reference in paragraph (5) of regulation 3 to the date when the form and certificate are lodged with the local planning authority must be construed as a reference to the date when the form and certificate are transmitted to the authority by means of the electronic communication; but where the communication is received outside the authority’s business hours, it must be taken to have been received on the authority’s next working day.

(3) Where a local planning authority maintain a website for the purpose of advertising applications, regulation 10 applies with the modifications in paragraph (4).

(4) In regulation 10—

(a) for sub-paragraph (a) of paragraph (1), substitute—

“(a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and—

- (i) naming a place within the locality where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
- (ii) stating the address of a website where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public during the period of 21 days beginning with the date of publication of the notice, and the place on the website where such documents may be accessed, and how they may be accessed; and”;

(b) in paragraph (2), omit “both of” in both places in which it occurs, and in sub-paragraph (a) after “sub-paragraph (a)” insert “(i) or (ii)”.

(5) Paragraph (6) of this regulation applies where a person uses electronic communications for any of the following purposes—

- (a) making an application under regulation 3;
- (b) making an application under section 82B(2) of the Act for consent;
- (c) making an application under regulation 4;
- (d) giving notice of appeal to the Welsh Ministers under regulation 12;
- (e) making a claim under regulation 13 for compensation, or serving a listed building purchase notice under that regulation.

(6) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim or giving or serving the notice is taken to have agreed—

- (a) to the use of electronic communications for all purposes relating to the application, appeal, claim or notice (as the case may be) which are capable of being effected using such communications;
- (b) that the address for the purpose of such communications is the address incorporated into or otherwise logically associated with the application, appeal, claim or notice;
- (c) that deemed agreement under this paragraph subsists until the applicant gives notice in writing that the applicant wishes to revoke the agreement (and such revocation takes effect

on a date specified by the applicant being not less than seven days after the date on which the notice is given).

Applications by local planning authorities

9.—(1) In relation to applications by local planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings or for the demolition of unlisted buildings in conservation areas, the provisions of the Act specified in section 82(3) of the Act have effect subject to the exceptions and modifications prescribed in this regulation.

(2) Where a local planning authority require listed building consent for the demolition, alteration or extension of a listed building in their area or conservation area consent for the demolition of a building within a conservation area in their area, the authority must make an application to the Welsh Ministers for that consent.

(3) Any such application must be in the form of an application to the local planning authority and is deemed to have been referred to the Welsh Ministers under section 12 of the Act. The provisions of that section apply to the determination of the application by the Welsh Ministers.

(4) Where a local planning authority are making an application for consent under paragraph (2) they must, before sending it to the Welsh Ministers—

- (a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and naming a place within the locality where a copy of the application and of all the plans and other documents which it is intended to submit to the Welsh Ministers with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
- (b) for not less than 7 days display on or near the building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a).

(5) Paragraph (4) does not apply to any application by a local planning authority relating to works affecting only the interior of a building which when last notified to the authority by the Welsh Ministers as a building of special architectural or historic interest was classified as a Grade II (unstarred) listed building.

(6) An application by a local planning authority to the Welsh Ministers under paragraph (2) above must be accompanied by a copy of all representations duly made in relation to the application.

(7) In relation to a listed building or a building in a conservation area belonging to a local planning authority, the Welsh Ministers may serve any notice authorised to be served by a local planning authority in relation to a listed building or a building in a conservation area.

Advertisement of applications

10.—(1) Subject to paragraph (3), where an application under regulation 3 or 4 is made to a local planning authority in respect of any building the authority must—

- (a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and naming a place within the locality where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
- (b) for not less than 7 days display on or near the said building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a).

(2) Subject to paragraph (3), an application under regulation 3 or 4 must not be determined by the local planning authority before both of the following periods have elapsed, namely—

- (a) the period of 21 days referred to in sub-paragraph (a) of paragraph (1); and
- (b) the period of 21 days beginning with the date on which the notice required by sub-paragraph (b) of paragraph (1) was first displayed,

and in determining the application the authority must take into account any representations relating to the application which are received by them before both of those periods have elapsed.

(3) Paragraphs (1) and (2) do not apply to any application for—

- (a) listed building consent to carry out works affecting only the interior of a building which when last notified to the local planning authority by the Welsh Ministers as a building of special architectural or historic interest was classified as a Grade II (unstarred) listed building; or
- (b) the variation or discharge of conditions attached to a listed building consent in respect of the interior of such a Grade II (unstarred) listed building.

Advertisement of applications for urgent works relating to Crown development

11.—(1) Subject to paragraph (2), where an application under section 82B(2) of the Act is made to the Welsh Ministers in respect of any building the Welsh Ministers must—

- (a) publish in a local newspaper circulating in the locality in which the building is situated a notice—
 - (i) indicating the nature of the works which are the subject of the application; and
 - (ii) naming a place within the locality where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
 - (iii) stating the address of the website where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public during that period, together with the place on the website where such documents may be accessed, and how they may be accessed; and
- (b) for not less than 7 days display on or near the said building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a).

(2) Paragraph (1) does not apply to any application for listed building consent to carry out works affecting only the interior of a Grade II (unstarred) listed building which, when last notified to the authority by the Welsh Ministers as a building of special architectural or historic interest, was classified as a Grade II (un-starred) listed building.

Appeals

12.—(1) An applicant who wishes to appeal—

- (a) against a decision of a local planning authority—
 - (i) refusing listed building consent or conservation area consent or granting either such consent subject to conditions; or
 - (ii) refusing to vary or discharge the conditions attached to a listed building consent or a conservation area consent, or in respect of the addition of new conditions consequential upon any such variation or discharge; or

- (b) following the failure of a local planning authority to give notice of their decision or of the reference of the application to the Welsh Ministers;

must give notice of appeal to the Welsh Ministers (on a form obtained from the Welsh Ministers) within six months of notice of the decision or of the expiry of the appropriate period allowed under regulation 3(5), as the case may be, or such longer period as the Welsh Ministers may at any time allow.

(2) Such a person must also furnish the Welsh Ministers with a copy of each of the following documents—

- (i) the application;
- (ii) all relevant plans, drawings, particulars and documents submitted with the application, including a copy of the certificate given in accordance with regulation 7;
- (iii) the notice of the decision, if any;
- (iv) all other relevant correspondence with the local planning authority.

Claims for compensation and listed building purchase notices

13.—(1) A claim for compensation made to a local planning authority under sections 28 or 29 of the Act, or a listed building purchase notice served on the council of a county or county borough or a national park authority under section 32(5) of the Act, must be in writing and must be served on that authority or council or national park authority by delivering it at the offices of the authority or council or national park authority addressed to the clerk or by sending it so addressed by prepaid post.

(2) The time within which any such claim or notice as is mentioned in paragraph (1) must be served is—

- (a) in the case of a claim for compensation, 6 months; and
- (b) in the case of a listed building purchase notice, 12 months,

from the date of the decision in respect of which the claim or notice is made or given, or such longer period as the Welsh Ministers may allow in any particular case.

Advertisement of unopposed revocation or modification order

14. Where by virtue of the provisions of section 25(2) of the Act the making of an order under section 23(6) of the Act in respect of works to a building is required to be advertised, the local planning authority must publish the advertisement in a local newspaper circulating in the locality in which the building is situated.

Application of the Public Health Act 1936 to listed building enforcement notices

15.—(1) The provisions of sections 276, 289 and 294 of the Public Health Act 1936(7) apply in relation to steps required to be taken by a listed building enforcement notice, as if—

- (a) references to a local authority are references to the local planning authority who issued the enforcement notice;
- (b) references (in whatever form) to the execution of works under the Public Health Act 1936 are references to the taking of steps required to be taken under the notice;

(5) Section 32(1) was amended by section 20(4) and Schedule 6, paragraph 25 of the Local Government (Wales) Act 1994 (c. 19). Section 32(4A) was inserted by section 78 and Schedule 10, paragraph 33(2) of the Environment Act 1995 (c. 25). There are other amendments to this section which are not relevant.

(6) Section 23 was amended by section 118(1) and Schedule 6, paragraphs 19 and 21 of the Planning and Compulsory Purchase Act 2004 (c. 5).

(7) 1936 c. 49.

- (c) references in section 289 to the occupier are references to a person other than the owner with an interest in the premises; and
- (d) the reference in section 294 to “expenses under this Act” is a reference to expenses incurred in the taking of such steps.

(2) The expenses recoverable by a local planning authority under section 42(1)(8) of the Act are, until recovered, a charge that is binding on successive owners of the land to which the listed building enforcement notice related and the charge must take effect as from the date of the completion by the local planning authority of the steps required to be taken by the listed building enforcement notice.

Demolition of unlisted buildings in conservation areas

16. In their application to buildings in conservation areas, the provisions of the Act referred to in section 74(3) and set out in column (1) of Schedule 3 will have effect as they have effect in relation to listed buildings subject to—

- (a) the substitution of “conservation area enforcement notice” for any reference to “listed building enforcement notice”, and the substitution of “conservation area purchase notice” for any reference to “listed building purchase notice”; and
- (b) the exceptions and additional modifications (if any) set out opposite such provisions in column (2) of that Schedule.

Form of notice that a building has become, or ceased to be, listed

17. The forms set out in Schedule 4 (or forms substantially to the like effect) are the prescribed forms of notice for the purposes of section 2(3) of the Act.

Revocations, Savings and Consequential Amendments

18.—(1) Subject to paragraph (3) the statutory instruments specified in the first column of the table in Schedule 5 are revoked, in so far as they apply to Wales, to the extent specified in the corresponding row of the third column of the table.

(2) The Planning (Listed Buildings and Conservation Areas) Regulations 1995 (“the Principal Regulations”), as they apply to Wales, are saved in relation to any application, appeal, compensation claim, purchase notice or other proceedings lodged or begun before the 30 April 2012 and accordingly consideration or determination of such must be made by reference to the Principal Regulations.

(3) Where, in consequence of an order of any court (whenever made) the Welsh Ministers re-determine, after the coming into force of these Regulations, an application, appeal or compensation claim made under any provision of the Principal Regulations, the re-determination must be made by reference to these Regulations.

10 March 2012

John Griffiths
Minister for Environment and Sustainable
Development, one of the Welsh Ministers