
WELSH STATUTORY INSTRUMENTS

2012 No. 801

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

PART 6

Miscellaneous

Certificate of lawful use or development

28.—(1) An application for a certificate under section 191(1) or 192(1) of the 1990 Act (certificates of lawfulness of existing or proposed use or development)⁽¹⁾ must be made on a form published by the Welsh Ministers (or a form substantially to the like effect) and must, in addition to specifying the land and describing the use, operations or other matter in question in accordance with those sections, include the particulars specified or referred to in the form.

(2) An application to which paragraph (1) applies must be accompanied by—

- (a) a plan identifying the land to which the application relates drawn to an identified scale and showing the direction of north;
- (b) such evidence verifying the information included in the application as the applicant can provide; and
- (c) a statement setting out the applicant's interest in the land, the name and address of any other person known to the applicant to have an interest in the land and whether any such other person has been notified of the application.

(3) Where an application for a certificate under section 192(1) of the 1990 Act is made in respect of Crown land, it must, in addition to the documents required by paragraph (2), 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.

(4) Where such an application specifies two or more uses, operations or other matters, the plan which accompanies the application must indicate to which part of the land each such use, operation or matter relates.

(5) Where an application is made using electronic communications the provisions of article 32 apply.

(6) Articles 8(1) and 22(5) apply to an application for a certificate to which paragraph (1) applies as they apply to an application for planning permission.

(7) When the local planning authority receive an application which complies with the requirements of paragraphs (1) to (4) and any fee required to be paid with respect to the application is lodged, they must, as soon as reasonably practicable, send to the applicant an acknowledgement of the application in the terms (or substantially in the terms) set out in Schedule 1.

(1) Sections 191 and 192 were substituted by the Planning and Compensation Act 1991 (c. 34) section 10(1).

(8) Where, after sending an acknowledgement as required by paragraph (7), the local planning authority consider that the application is invalid they must, as soon as reasonably practicable, notify the applicant that the application is invalid.

(9) The local planning authority may by notice in writing require the applicant to provide such further information as may be specified to enable them to deal with the application.

(10) Where a valid application has been received, the local planning authority must give the applicant written notice of their decision within—

- (a) the period of eight weeks beginning with the day the application is received by the authority; or
- (b) unless the applicant has already given notice of appeal to the Welsh Ministers within such extended period as may be agreed in writing between the applicant and the authority.

(11) For the purpose of calculating the appropriate period specified in paragraph (10) where any fee required has been paid by a cheque which is subsequently dishonoured, the period between the date when the local planning authority send 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.

(12) In this article, “valid application” (“*cais dilys*”) means an application which—

- (a) complies with the requirements of paragraphs (1) to (4); and
- (b) is accompanied by the 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 all of the documents, particulars or evidence referred to in paragraphs (1) to (4) and any fee required have been lodged with the local planning authority.

(13) Where an application is refused, in whole or in part (including a case in which the local planning authority modify the description of the use, operations or other matter in the application or substitute an alternative description for that description), the notice of decision must state clearly and precisely the authority’s full reasons for their decision and must include a statement to the effect that if the applicant is aggrieved by the decision the applicant may appeal to the Welsh Ministers under section 195 of the 1990 Act (appeals against refusal or failure to give decision on application)(2).

(14) A certificate under section 191 or 192 of the 1990 Act must be in the form set out in Schedule 7, or in a form substantially to the like effect.

(15) Where a local planning authority propose to revoke a certificate issued under section 191 or 192 of the 1990 Act in accordance with section 193(7) of the 1990 Act (certificates under sections 191 and 192: supplementary provisions)(3), they must, before they revoke the certificate, give notice of that proposal to—

- (a) the owner of the land affected;
- (b) the occupier of the land affected;
- (c) any other person who will in their opinion be affected by the revocation; and
- (d) in the case of a certificate issued by the Welsh Ministers under section 195 of the 1990 Act, the Welsh Ministers.

(16) A notice issued under paragraph (15) must invite the person on whom the notice is served to make representations on the proposal to the local planning authority within 14 days of service of the notice and the authority must not revoke the certificate until all such periods allowed for making representations have expired.

(2) Section 195 was amended by section 32 of, and paragraph 32 of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and section 197 of, and paragraphs 1 and 3 to Schedule 11 to, the Planning Act 2008 (c. 29).

(3) Section 193 was substituted by section 10(1) of the Planning and Compensation Act 1991.

(17) A local planning authority must give written notice of any revocation under section 193(7) of the 1990 Act to every person on whom notice of the proposed revocation was served under paragraph (15).