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WELSH STATUTORY INSTRUMENTS

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**2016 No. 55**

The Developments of National Significance  
(Procedure) (Wales) Order 2016

**PART 3**

Applications

**Applications: general requirements**

**12.**—(1) An application must consist of—

- (a) the application form published by the Welsh Ministers (or a form substantially to the like effect), including the particulars specified or referred to in the form;
- (b) except in the case of an application made pursuant to section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached) <sup>M1</sup>—
  - (i) a plan which identifies the land to which the application relates;
  - (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application;
  - (iii) a copy of the notice required by article 6 which has not lapsed under paragraph (3) of that article;
  - (iv) a design and access statement in accordance with article 14;
  - (v) the certificate required by article 17;
  - (vi) the pre-application consultation report required by article 11;
  - (vii) the particulars or evidence required by the Welsh Ministers under section 62(3) of the 1990 Act;
  - (viii) where applicable, an environmental statement;
  - (ix) a written statement about secondary consents connected with the proposed application in respect of which the applicant considers a decision is to be made or should be made by the Welsh Ministers; <sup>F1</sup>...
  - (x) a written statement about the status of discussions between the applicant and the local planning authority in respect of obligations under section 106 of the 1990 Act (planning obligations) <sup>M2</sup>[<sup>F2</sup>; and]
  - [<sup>F3</sup>(xi) in the case of development within regulation 3(1)(ab) of the Criteria Regulations, a written statement about the length of the proposed line and its nominal voltage, and whether all necessary wayleaves have been agreed with owners and occupiers of land proposed to be crossed by the line.]

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

(3) Paragraph (1)(b)(vii) only applies if—

- (a) before the application is made the Welsh Ministers publish a list of requirements on their website; and
  - (b) the particulars or evidence that the Welsh Ministers require to be included in the application fall within that list.
- (4) An application for development which includes mining operations or the use of land for mineral-working deposits <sup>M3</sup> must consist of—
- (a) the application form published by the Welsh Ministers (or a form substantially to the like effect), including the particulars specified or referred to in the form; and
  - (b) except in the case of an application made pursuant to section 73 of the 1990 Act, the documents referred to in paragraph (1)(b).
- (5) Where an application is made by electronic communications, the applicant must on the same day as making the application deposit one hard copy of the application with—
- (a) the Welsh Ministers; and
  - (b) the local planning authority.
- (6) The applicant must, as soon as reasonably practicable, confirm their compliance with the requirement in paragraph (5)(b) to the Welsh Ministers in writing.
- [<sup>F4</sup>(6A) Paragraphs (5) and (6) do not apply to an application made during the period—
- (a) beginning with 19 May 2020, and
  - (b) ending with [<sup>F5</sup>8 October 2021].
- (7) Where the Welsh Ministers receive an application, they must as soon as practicable notify the local planning authority of its receipt.
- (8) An application must be accompanied by any fee payable in respect of—
- (a) the initial administration of the application; and
  - (b) any local impact report required under section 62I(2) of the 1990 Act.]

#### Textual Amendments

- F1** Word in art. 12(1)(b)(ix) omitted (1.4.2019) by virtue of [The Developments of National Significance \(Procedure\) \(Wales\) \(Amendment\) Order 2019 \(S.I. 2019/290\)](#), arts. 1(1), **2(4)(a)** (with art. 1(2))
- F2** Word in art. 12(1)(b)(x) inserted (1.4.2019) by [The Developments of National Significance \(Procedure\) \(Wales\) \(Amendment\) Order 2019 \(S.I. 2019/290\)](#), arts. 1(1), **2(4)(b)** (with art. 1(2))
- F3** Art. 12(1)(b)(xi) inserted (1.4.2019) by [The Developments of National Significance \(Procedure\) \(Wales\) \(Amendment\) Order 2019 \(S.I. 2019/290\)](#), arts. 1(1), **2(4)(c)** (with art. 1(2))
- F4** Art. 12(6A) inserted (19.5.2020) by [The Planning Applications \(Temporary Modifications and Disapplication\) \(Wales\) \(Coronavirus\) Order 2020 \(S.I. 2020/514\)](#), arts. 1(2), **4**
- F5** Words in art. 12(6A)(b) substituted (9.1.2021) by [The Planning Applications \(Temporary Modifications and Disapplication\) \(No. 3\) \(Wales\) \(Coronavirus\) Order 2020 \(S.I. 2020/1516\)](#), arts. 1(2), **3(2)**

#### Marginal Citations

- M1** Section 73 was amended by sections 42(2), 51(3), 120 of, and Schedule 9 to, the 2004 Act and section 35(7) of the 2015 Act and was applied with modifications by article 3(1) of the Application of Enactments Order. Applications made pursuant to section 73 which are to be treated as nationally significant development in accordance with section 62D(6) of the 1990 Act, are those of a description specified in regulation 51 of the [Developments of National Significance \(Wales\) Regulations 2016 \(S.I. 2016/56\)](#) (W. 26).

- M2** Section 106 was substituted by section 12(1) of the 1991 Act and amended by section 174(2) of the 2008 Act and section 7 of, paragraph 3 of Schedule 2 to, the [Growth and Infrastructure Act 2013](#) (c. 27).
- M3** For the definition of “mineral-working deposit” see section 336 of the 1990 Act.

### Applications in respect of Crown land

- 13.** An application 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

**14.—(1)** An application must include a statement (“a design and access statement”) (“*datganiad dylunio a mynediad*”) which complies with paragraph (2).

- (2) A design and access statement must—
- (a) explain the design principles and concepts that have been applied to the development;
  - (b) demonstrate the steps taken to appraise the context of the development and how the design of the development takes that context into account;
  - (c) explain the policy or approach adopted as to access, and how policies relating to access in the development plan <sup>M4</sup> have been taken into account; and
  - (d) explain how any specific issues which might affect access to the development have been addressed.

#### Marginal Citations

- M4** See sections 38 and 62 of the 2004 Act.

### Acceptance of applications

**15.—(1)** The Welsh Ministers are to be taken as having received a “valid application” when they are in receipt of each of the following—

- (a) an application which is in accordance with article 12(1);
- (b) any fee required to be paid in respect of pre-application services provided under the Developments of National Significance (Wales) Regulations 2016 <sup>M5</sup>;
- (c) the fee referred to in article 5(3); and
- (d) the fees referred to in article 12(8)(a).

(2) Where the Welsh Ministers receive a valid application, they must give notice of their acceptance of the application (“notice of acceptance”) (“*hysbysiad derbyn*”) to the applicant and the local planning authority in accordance with paragraph (4).

(3) It is the giving of such notice in accordance with paragraph (2) that constitutes acceptance of the application for the purposes of section 62L(3) of the 1990 Act (timetable for determining applications) (and the date the notice is given constitutes the date of acceptance).

- (4) Notice of acceptance —
- (a) must be given in writing within the relevant period;

- (b) must confirm that the application is accepted; and
  - (c) may include such other information related to the application as the Welsh Ministers consider appropriate.
- (5) Where the Welsh Ministers consider that an application they have received is not a valid application, they must within the relevant period notify the following that the application is not accepted—
- (a) the applicant;
  - (b) the local planning authority; and
  - (c) any other persons that the Welsh Ministers consider appropriate.
- (6) Notification given under paragraph (5) must include the reasons why the Welsh Ministers consider that the application received is not a valid application.
- (7) In this article, “the relevant period” (“*y cyfnod perthnasol*”) is—
- (a) in a case where the application is accompanied by an environmental statement, 42 days, beginning with the day on which the Welsh Ministers are in receipt of an application, or such longer period as the Welsh Ministers may determine; or
  - (b) in a case where the application is not accompanied by an environmental statement, 28 days, beginning with the day on which the Welsh Ministers are in receipt of an application, or such longer period as the Welsh Ministers may determine.

**Marginal Citations**

**M5** [S.I. 2016/56](#) (W. 26).

**Notices of applications for planning permission**

**16.**—(1) Subject to paragraph (2), an applicant must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of any of the land to which the application relates, or a tenant—

- (a) by serving the notice on every such person whose name and address is known to the applicant; and
- (b) where the applicant has taken reasonable steps to ascertain the names and addresses of every such person, but has been unable to do so, by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated.

(2) In the case of an application consisting of the winning and working of minerals by underground operations, instead of giving notice in the manner provided for by paragraph (1), the applicant must give requisite notice of the application to any person (other than the applicant) who on the prescribed date is an owner of any of the land to which the application relates, or a tenant—

- (a) by serving the notice on every such person whom the applicant knows to be such a person and whose name and address is known to the applicant;
- (b) by publication of the notice after the prescribed date in a newspaper circulating in the locality in which the land to which the application relates is situated; and
- (c) by site display in at least one place in every community within which there is situated any part of the land to which the application relates, leaving the notice in position for not less than 7 days in the period of 21 days immediately preceding the making of the application to the Welsh Ministers.

(3) The notice required by paragraph (2)(c) must (in addition to any other matters required to be contained in it) state the address of the website where a copy of the application, and of all plans and other documents submitted with it, will be published.

(4) Where the notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 7 days referred to in paragraph (2)(c) has elapsed, the applicant will be treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps to protect the notice and, if need be, replace it.

(5) The date prescribed for the purposes of section 65(2) of the 1990 Act (notice etc of applications for planning permission), and the “prescribed date” (“*dyddiad rhagnodedig*”) for the purposes of this article, is the day 21 days before the date of the application.

(6) The applications prescribed for the purposes of paragraph (c) of the definition of “owner” (“*perchennog*”) in section 65(8) of the 1990 Act are minerals applications, and the minerals prescribed for the purposes of that paragraph are any minerals other than oil, gas, coal, gold or silver.

(7) In this article—

“minerals application” (“*cais mwynau*”) means an application for development consisting of the winning and working of minerals;

“requisite notice” (“*hysbysiad gofynnol*”) means notice in the appropriate form set out in Schedule 3 (or in a form substantially to the like effect), but will not include notice served using electronic communications; and

“tenant” (“*tenant*”) means an agricultural tenant as defined in section 65(8) of the 1990 Act, of land any part of which is comprised in the land to which an application relates.

### **Certificates in relation to notices of applications**

**17.**—(1) Where an application is made, the applicant must certify, in a form published by the Welsh Ministers (or in a form substantially to the like effect), that the requirements of article 16 have been satisfied.

(2) If an applicant has cause to rely on paragraph (5) of article 16, the certificate must state the relevant circumstances.

### **Publicity for applications for planning permission: Welsh Ministers**

**18.**—(1) An application must be publicised by the Welsh Ministers in the manner prescribed by this article.

(2) An application must be publicised by giving requisite notice—

(a) by publication, within the relevant period, of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated;

(b) by serving the notice, within the relevant period, on any adjoining owner or occupier.

(3) The following information must be published on a website maintained by the Welsh Ministers—

(a) the address and location of the proposed development;

(b) a description of the proposed development;

[<sup>F6</sup>(ba) in the case of an application accompanied by an environmental statement—

(i) the fact that the development is subject to an environmental impact assessment procedure;

(ii) the environmental statement, any relevant scoping direction, and any further information or any other information;

- (iii) in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998, the main reports and advice issued to the Welsh Ministers at the time the information is published (if any);
  - (iv) in accordance with the Environmental Information Regulations 2004, information other than that required under any other sub-paragraph which is relevant to the decision and which only becomes available after the time the information required by this paragraph was first published;
  - (v) how copies of the environmental statement may be obtained and the cost of such copies;
  - (vi) other details of the arrangements for public participation in the decision-making procedure including a description of the procedure for the publication of any additional information subsequently submitted by the applicant;
  - (vii) details of the authority responsible for taking the decision;]
- (c) the date by which any representations about the application must be received [<sup>F7</sup>which, in the case of an application accompanied by an environmental statement, must not be before the last day of the period of 30 days beginning on the latest date on which the application has been publicised in accordance with article 18(2), (3) or 19(2)];
- (d) where and when the application may be inspected; and
- (e) how representations may be made about the application.
- (4) In this article—
- “adjoining owner or occupier” (“*perchennog neu feddianydd cyffiniol*”) means an owner or occupier of any land adjoining the land to which the application relates;
- [<sup>F8</sup>“further information” (“*gwybodaeth bellach*”) and “any other information” (“*unrhyw wybodaeth arall*”) have the same meanings as the EIA Regulations;]
- “the relevant period” (“*y cyfnod perthnasol*”) means 5 working days, beginning with the day on which the Welsh Ministers accept the application in accordance with article 15(3); and
- “requisite notice” (“*hysbysiad gofynnol*”) means notice in the appropriate form set out in Schedule 4 (or in a form substantially to the like effect).

#### Textual Amendments

- F6** Art. 18(3)(ba) inserted (W.) (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. 2(3)(a)** (with regs. 1(4), 55(2)(3), 63, 65)
- F7** Words in art. 18(3)(c) inserted (W.) (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. 2(3)(b)** (with regs. 1(4), 55(2)(3), 63, 65)
- F8** Words in art. 18(4) inserted (W.) (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. 2(3)(c)** (with regs. 1(4), 55(2)(3), 63, 65)

#### Publicity for applications for planning permission: local planning authority

**19.—(1)** An application must be publicised by the local planning authority in the manner prescribed by this article.

(2) The local planning authority must give notice by site display, in a form supplied to them by the Welsh Ministers, in at least one place in its area which is on or near the land to which the application

relates for not less than [<sup>F9</sup>30 days, in the case of an application accompanied by an environmental statement, and 21 days in any other case].

(3) Where the local planning authority has satisfied the requirement in paragraph (2), they must inform the Welsh Ministers in writing that they have done so within 5 working days, beginning with the day on which the notice is given.

(4) Where the local planning authority fails to comply with the requirement in paragraph (2), the Welsh Ministers may take the steps required of the authority by that paragraph in place of the authority.

(5) Where the notice is, without any fault or intention of the local planning authority (or the Welsh Ministers, as the case may be in accordance with paragraph (4)), removed, obscured or defaced before the period of [<sup>F10</sup>21 or 30 days, as appropriate,] referred to in paragraph (2) has elapsed, they will be treated as having complied with the requirements of that paragraph if they have taken reasonable steps to protect the notice and, if need be, replace it.

#### Textual Amendments

**F9** Words in art. 19(2) substituted (W.) (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. 2(4)(a)** (with regs. 1(4), 55(2)(3), 63, 65)

**F10** Words in art. 19(5) substituted (W.) (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. 2(4)(b)** (with regs. 1(4), 55(2)(3), 63, 65)

#### Register of applications

**20.**—(1) The local planning authority must within the relevant period place on the register required to be kept under article 29 of the 2012 Order a copy of—

- (a) any application made to the Welsh Ministers;
- (b) any notification of receipt of an application given by the Welsh Ministers under article 12(7);
- (c) any notice of acceptance given by the Welsh Ministers in relation to an application under article 15(2);
- (d) any notification that an application is not accepted so given under article 15(5);
- (e) any written notice of a decision given in relation to an application under article 29; and
- (f) any revised notice of a decision to grant planning permission given under article 30.

(2) In this article, “the relevant period” (“*y cyfnod perthnasol*”) is 5 working days, beginning with—

- (a) in a case where an application, notification or notice of the kind referred to in paragraph (1) (a) to (e) is made or given, the day on which the local planning authority receives the application, notification or notice; or
- (b) in a case where a notice referred to in paragraph (1)(f) is given, the day on which the local planning authority gives such notice.

#### Representations received by the local planning authority in respect of applications

**21.** Where representations in relation to an application are received by the local planning authority they must, as soon as is practicable, forward the representations to the Welsh Ministers at the address notified to the authority by the Welsh Ministers for that purpose.

**Changes to legislation:**

There are currently no known outstanding effects for the The Developments of National Significance (Procedure) (Wales) Order 2016, PART 3.