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WELSH STATUTORY INSTRUMENTS

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**2016 No. 61 (W. 31)**

**TOWN AND COUNTRY PLANNING, WALES**

**The Town and Country Planning (Pre-Application Services) (Wales) Regulations 2016**

<i>Made</i>	- - - -	<i>27 January 2016</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>1 February 2016</i>
<i>Coming into force</i>	- -	<i>16 March 2016</i>

The Welsh Ministers, in exercise of the powers conferred on them by sections 61Z1, 61Z2 and 333(2A) of the Town and Country Planning Act 1990<sup>(1)</sup>, make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Town and Country Planning (Pre-Application Services) (Wales) Regulations 2016 and they come into force on 16 March 2016.

(2) These Regulations apply in relation to Wales.

(3) Nothing in these Regulations applies to—

- (a) an application or proposed application for planning permission for the development of land in Wales where the development to which the application or proposed application relates is of national significance<sup>(2)</sup>; or
- (b) an application or requirement for a secondary consent<sup>(3)</sup> in respect of which the applicant considers a decision should be made by the Welsh Ministers.

**Interpretation**

2. In these Regulations—

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990;

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(1) 1990 c. 8. Sections 61Z1 and 61Z2 were inserted by section 18 of the Planning (Wales) Act 2015 (anaw 4). Section 333(2A) was inserted by section 118(1) of, and paragraphs 1 and 14 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5).

(2) Development is of national significance if it meets the criteria specified in the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (S.I. 2016/53) (W. 23).

(3) For definition of “secondary consent” see section 62H of the 1990 Act, inserted by section 20 of the Planning (Wales) Act 2015. Secondary consents are prescribed for the purposes of section 62H by the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (S.I. 2016/53) (W.23).

“the 2012 Order” (“*Gorchymyn 2012*”) means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(4);

“applicant” (“*ceisydd*”) means the person proposing to make a qualifying application(5);

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(6); and

“householder application” (“*cais deiliad ty*”) has the same meaning as in article 2(1) of the 2012 Order.

### Electronic communications

3.—(1) In these Regulations, and 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;
- (b) references to requests or other documents include references to such documents in electronic form.

(2) Paragraphs (3) to (6) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send a request or any other document to any other person (“the recipient”).

(3) The requirement is taken to be fulfilled where the request 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.

(4) In paragraph (3), “legible in all material respects” (“*darllenadwy ym mhob modd perthnasol*”) means that the information contained in the request 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.

(5) Where the electronic communication is received by the recipient outside the recipient’s business hours, it will be taken to have been received on the next working day; and for this purpose “working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday in Wales.

(6) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (3), and “written” (“*ysgrifenedig*”) and cognate expressions are to be construed accordingly.

### Qualifying applications

4. Qualifying applications for the purposes of section 61Z1(4) of the 1990 Act (Wales: pre-application services) are applications for planning permission made to a local planning authority for the development of land in Wales except applications pursuant to section 73A of the 1990 Act (planning permission for development already carried out)(7).

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(4) S.I. 2012/801 (W. 110) amended by S.I. 2015/1330 (W. 123). Other amendments are not relevant to these Regulations.

(5) For “qualifying application” see section 61Z(4) of the Planning (Wales) Act 2015 and regulation 4.

(6) 2000 c. 7. Section 15(1) was amended by section 406(1) of, and paragraph 158 of Schedule 17 to, the Communications Act 2003 (c. 21).

(7) Section 73A was inserted by section 32 of, and paragraph 16(1) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34).

### **Request for pre-application services**

- 5.—(1) Any request for pre-application services in respect of a qualifying application must—
- (a) be made in writing to the local planning authority on a form published by the Welsh Ministers (or a form substantially to the like effect);
  - (b) include the particulars specified or referred to in the form published by the Welsh Ministers; and
  - (c) be accompanied by—
    - (i) any plans or drawings specified or referred to in the form published by the Welsh Ministers; and
    - (ii) the fee required to be paid in respect of a request for pre-application services<sup>(8)</sup>.
- (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) In these Regulations a “valid request for pre-application services” (*“deisyfiad dilys am wasanaethau cyn-ymgeisio”*) means a request for pre-application services in respect of a qualifying application which complies with the requirements of this regulation.
- (4) When the local planning authority receive a valid request for pre-application services, the authority must, as soon as is reasonably practicable, send the applicant an acknowledgement of the request stating the date by which pre-application services must be provided under regulation 6(3).

### **Duty to provide pre-application services**

- 6.—(1) Where a local planning authority receive a valid request for pre-application services, the authority must provide the pre-application services specified in paragraph (2) within the period specified or referred to in paragraph (3).
- (2) The pre-application services specified in this paragraph are—
- (a) if the request for pre-application services relates to a proposed householder application, the provision to the applicant of the information specified in regulation 7; or
  - (b) in any other case, the provision to the applicant of the information specified in regulations 7 and 8.
- (3) The period specified in this paragraph is—
- (a) 21 days beginning with the day on which a valid request for pre-application services is received, or such other period as may be agreed in writing between the applicant and the authority; or
  - (b) where the fee required in respect of a request for pre-application services has been paid by a cheque which is subsequently dishonoured, the period specified in sub-paragraph (a) 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.
- (4) Any information given to the applicant must be given in writing.

### **Information to be provided by local planning authorities: all proposed qualifying applications**

7. The information specified in this regulation is information in relation to the following—

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<sup>(8)</sup> See the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits (Wales) Regulations 2015 (S.I. 2015/1522) (W. 179) amended by S.I. 2016/62 (W.32) for fees payable in respect of requests for pre-application services.

- (a) the planning history of the land on which the proposed development is to be carried out, so as far relevant to the proposed application;
- (b) the provisions of the development plan, so far as material to the proposed application;
- (c) any supplementary planning guidance, so far as material to the proposed application;
- (d) any other considerations which are or could be material in the opinion of the authority; and
- (e) an initial assessment of the proposed development on the basis of the information provided under paragraphs (a) to (d).

**Additional information to be provided by local planning authorities: proposed qualifying applications other than proposed householder applications**

8.—(1) The information specified in this regulation is information in relation to the following—

- (a) whether planning obligations (within the meaning of section 106 of the 1990 Act (planning obligations)(9)) are likely to be required and, if so, an indication of the likely scope of such planning obligations, including an indication of any sum which may be required to be paid to the authority;
- (b) whether a liability to pay a Community Infrastructure Levy(10) is likely to arise, and if so, an indication of the likely amount; and
- (c) details of any documents and particulars or evidence that would be required for a subsequent application to be a valid application.

(2) In this regulation “valid application” (“*cais dilys*”) has the same meaning as in article 22 of the 2012 Order.

**Monitoring and statement of services**

9.—(1) Local planning authorities must maintain a record of—

- (a) each valid request for pre-application services received by them; and
- (b) pre-applications services provided in respect of qualifying applications.

(2) The records referred to in paragraph (1) must identify the land to which the qualifying application relates.

(3) Each local planning authority must publish on its website—

- (a) a statement which gives particulars of the pre-application services provided by them in respect of qualifying applications;
- (b) the form referred to in regulation 5(1)(a); and
- (c) details of the fees payable in respect of requests for pre-application services.

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

27 January 2016

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(9) Section 106 was substituted by section 12(1) of the Planning and Compensation Act 1991(c. 31) and amended by section 174(2) of the Planning Act 2008 (c. 29) and section 7 of, and paragraph 3 of Schedule 2 to, the Growth and Infrastructure Act 2013 (c. 27).

(10) See section 205 of the Planning Act 2008 (c. 29) for definition of Community Infrastructure Levy.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision under sections 61Z1 and 61Z2 of the Town and Country Planning Act 1990 (“the 1990 Act”) for the provision of services by local planning authorities before a qualifying application is made (“pre-application services”).

Regulation 4 specifies that qualifying applications are applications for full and outline planning permission and applications made pursuant to section 73 of the 1990 Act.

Regulation 5 makes provision about the form and content of requests for pre-application services and the information that is to accompany such requests.

Regulations 6, 7 and 8 make provision about—

(1) pre-applications services which must be provided by local planning authorities if requested; and

(2) when such services are to be provided.

Regulation 9 makes provision about the records to be kept of requests for pre-application services and pre-application services provided. It also makes provision about the publication of information relating to the services, including details of the fees payable.

These Regulations do not apply to proposed applications for planning permission made to the Welsh Ministers under section 62D of the 1990 Act. Part 2 of the Developments of National Significance (Wales) Regulations 2016 makes provision for pre-application services in respect of such applications.

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government website at [www.gov.wales](http://www.gov.wales).