



Planning (Wales) Act 2015

2015 anaw 4

PART 5

APPLICATIONS TO WELSH MINISTERS

Developments of national significance

19 Developments of national significance: applications for planning permission

In TCPA 1990, after section 62C insert—

“Wales: developments of national significance

62D Developments of national significance: applications to be made to Welsh Ministers

- (1) A nationally significant development application is to be made to the Welsh Ministers instead of to the local planning authority.
- (2) A nationally significant development application is an application for planning permission for the development of land in Wales, where the development to which the application relates is of national significance.
- (3) Development is of national significance for this purpose if it meets criteria specified in regulations made by the Welsh Ministers for the purposes of this section.
- (4) Development is also of national significance for this purpose if it is development that the National Development Framework for Wales specifies, under section 60(3) of the Planning and Compulsory Purchase Act 2004, is to constitute development of national significance for the purposes of this section.

Status: This is the original version (as it was originally enacted).

- (5) The planning permission that may be granted on an application under this section does not include outline planning permission (and for this purpose “outline planning permission” has the meaning given in section 92).
- (6) An application within subsection (7) is not to be treated as being a nationally significant development application, unless it is an application of a description prescribed in regulations made by the Welsh Ministers.
- (7) An application is within this subsection if it is an application for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

62E Notification of proposed application under section 62D

- (1) A person who proposes to make an application to the Welsh Ministers under section 62D must notify the following of the proposed application—
 - (a) the Welsh Ministers, and
 - (b) the local planning authority to which, but for section 62D, the application would be made.
- (2) The notification must comply with any requirements specified in a development order.
- (3) Those requirements may include requirements as to—
 - (a) the form and content of a notification;
 - (b) information that is to accompany the notification (including information about secondary consents in respect of which the person considers a decision should be made by the Welsh Ministers under section 62F, or otherwise relating to secondary consents);
 - (c) the way in which and time in which the notification is to be given.
- (4) On receiving notification of an application from a person in accordance with this section, the Welsh Ministers must give notice to the person that the notification has been accepted.
- (5) Any step taken in respect of an application that is proposed to be made under section 62D, if taken before the date on which notice is given under subsection (4) in respect of the application, is not to be treated for the purposes of this Act as constituting consultation with any person about the application.
- (6) A development order may make provision about the giving of notice by the Welsh Ministers under subsection (4).
- (7) That provision may include provision—
 - (a) about the form and content of the notice to be given under subsection (4);
 - (b) about the way in which it is to be given;
 - (c) about the period within which it is to be given (including provision about circumstances in which the Welsh Ministers may extend that period in a particular case).
- (8) In this section and sections 62F and 62G, “secondary consent” has the meaning given in section 62H.”

20 Developments of national significance: secondary consents

In TCPA 1990, after section 62E (as inserted by section 19) insert—

“62F Developments of national significance: secondary consents

- (1) Subsections (2) to (5) apply where—
 - (a) an application (a “section 62D application”) is made to the Welsh Ministers under section 62D, and
 - (b) the Welsh Ministers consider that—
 - (i) a secondary consent is connected to the section 62D application, and
 - (ii) having regard to their functions in respect of that section 62D application, the decision on that consent should be made by them.
- (2) Where the decision in respect of the secondary consent would (but for this section) be made by a person other than the Welsh Ministers, it is to be made by the Welsh Ministers.
- (3) For this purpose—
 - (a) any application that is required to be made in respect of the secondary consent, and has not yet been made, is to be made to the Welsh Ministers instead of the person to whom it would otherwise be made, and
 - (b) if an application has already been made in respect of the secondary consent to a person other than the Welsh Ministers, it is to be referred to the Welsh Ministers instead of being dealt with by that person.
- (4) Subject to the following provisions of this Act, in a case where (but for this section) the secondary consent would have been dealt with by another person, the secondary consent is to be dealt with by the Welsh Ministers as though the Welsh Ministers were that person.
- (5) The decision of the Welsh Ministers on the secondary consent is final.
- (6) A secondary consent is connected to a section 62D application, for the purposes of this section, if the secondary consent—
 - (a) is required in order for the development to which the section 62D application relates to be carried out,
 - (b) would facilitate the carrying out of that development, or
 - (c) would facilitate any re-development or improvement, or the achievement of any other purpose, carried out on or in relation to land in connection with that development.

62G Developments of national significance: supplementary provision about secondary consents

- (1) The Welsh Ministers may give directions requiring the relevant person to do things in relation to a secondary consent in respect of which, by virtue of section 62F(2), a decision is to be made by the Welsh Ministers.

Status: This is the original version (as it was originally enacted).

- (2) The relevant person is the person by whom (but for section 62F) the decision as to whether to grant the secondary consent would have been made.
- (3) The power to give directions under this section includes power to vary or revoke the directions.
- (4) Regulations made by the Welsh Ministers may make provision for regulating the manner in which a secondary consent, or an application for secondary consent, is to be dealt with by the Welsh Ministers under section 62F.
- (5) That provision may include provision—
 - (a) about consultation to be carried out by the Welsh Ministers before a secondary consent is granted or refused;
 - (b) requiring a person to provide a substantive response to any consultation carried out by virtue of the regulations (including about the requirements of a substantive response and the period within which it is to be provided).
- (6) Regulations made by the Welsh Ministers may provide for an applicable enactment or requirement—
 - (a) to apply, with or without modifications, in respect of a secondary consent within subsection (1), or an application for such a consent, or
 - (b) not to apply in respect of such a consent or application.
- (7) For this purpose an applicable enactment or requirement, in relation to a secondary consent within subsection (1), or an application for such a consent, is—
 - (a) any provision of or made under this Act, or of or made under any other enactment, in respect of consents of that kind;
 - (b) any requirements imposed by or under this Act, or any other enactment, in respect of consents of that kind.

62H Developments of national significance: meaning of secondary consent

- (1) For the purposes of this Act, a “secondary consent” is—
 - (a) a consent that is required under legislation, or is given under legislation, and that relates to, or is given in connection with, the development or use of land in Wales, or
 - (b) a notice that is required by legislation to be given in relation to, or in connection with, the development or use of land in Wales,
 and which, in either case, is of a description prescribed by regulations made by the Welsh Ministers.
- (2) A description of consent or notice may be prescribed under subsection (1) only if—
 - (a) provision for that consent or notice would be within the legislative competence of the National Assembly for Wales, if the provision were contained in an Act of the National Assembly, and
 - (b) the consent or notice is one that legislation provides is to be given by a body exercising functions of a public nature (whether or not the body also exercises any other function).

Status: This is the original version (as it was originally enacted).

- (3) For the purposes of subsection (1)—
- (a) references to a consent include references to a permit, certificate, licence or other authorisation;
 - (b) “legislation” means any of the following (whenever enacted or made)
 - (i) an Act of Parliament;
 - (ii) a Measure or Act of the National Assembly for Wales;
 - (iii) subordinate legislation within the meaning of the Interpretation Act 1978 (including subordinate legislation made under an Act of Parliament or a Measure or Act of the National Assembly for Wales).”

21 Developments of national significance: local impact reports

In TCPA 1990, after section 62H (as inserted by section 20) insert—

“62I Requirement to submit local impact report

- (1) This section applies where—
- (a) an application has been made to the Welsh Ministers under section 62D, and
 - (b) the Welsh Ministers have taken steps, in respect of the application, that are specified in a development order for the purposes of this section.
- (2) The Welsh Ministers must give notice in writing to each relevant local planning authority, requiring the authority to submit a local impact report in respect of the application to the Welsh Ministers.
- (3) The notice must specify the deadline for receipt of the report by the Welsh Ministers.
- (4) An authority to which notice is given under this section must comply with it.
- (5) A local planning authority is a relevant local planning authority for the purposes of subsection (2) if the land to which the application relates, or any part of that land, is in the authority’s area.

62J Duty to have regard to local impact report

- (1) In dealing with an application made to them under section 62D, the Welsh Ministers must have regard to any local impact report submitted to them by a local planning authority, in respect of the application, pursuant to a notice under section 62I.
- (2) In dealing with the application, the Welsh Ministers must also have regard to any voluntary local impact report submitted to them in respect of the application.
- (3) A voluntary local impact report is a local impact report submitted—
- (a) by a local planning authority in Wales otherwise than pursuant to a notice under section 62I, or
 - (b) by a community council.

Status: This is the original version (as it was originally enacted).

- (4) A development order may make provision about the submission of voluntary local impact reports to the Welsh Ministers (including provision about the manner in which a voluntary impact report is to be submitted, and the time at which it may be submitted).
- (5) The duty imposed by subsection (2) does not apply in respect of a voluntary local impact report submitted otherwise than in accordance with any provision made as described in subsection (4).

62K Local impact report: supplementary

- (1) For the purposes of sections 62I and 62J, a local impact report, in respect of an application, is a report in writing that—
 - (a) gives details of the likely impact of the proposed development on the area (or any part of the area) of the local planning authority or community council submitting the report, and
 - (b) complies with any requirements specified in a development order as to the form and content of local impact reports (including any requirements specified as to information to be provided in respect of secondary consents).
- (2) For this purpose the “proposed development” is the development in respect of which the application in question is made.”

22 Timetable for determining applications

In TCPA 1990, after section 62K (as inserted by section 21) insert—

“62L Timetable for determining applications

- (1) This section applies where an application has been made to the Welsh Ministers under section 62D.
- (2) The Welsh Ministers must determine the application, and make any decision that is to be made by them by virtue of section 62F(2), before the end of the determination period.
- (3) The determination period is the period of 36 weeks beginning with the date on which the application under section 62D is accepted by the Welsh Ministers.
- (4) A development order may make provision about what constitutes acceptance of an application for the purposes of subsection (3).
- (5) The Welsh Ministers may by notice—
 - (a) suspend the running of the determination period in a particular case for a period specified in the notice;
 - (b) terminate, reduce or extend an existing period of suspension.
- (6) Notice under subsection (5) must be given to—
 - (a) the person who made the application under section 62D,
 - (b) the local planning authority to which, but for section 62D, that application would have been made, and

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- (c) any representative persons (within the meaning of section 319B(8A)) the Welsh Ministers consider appropriate.
- (7) A development order may make provision about the giving of notice under subsection (5) (including provision about the information to be included in the notice and how and when it is to be given).
- (8) The Welsh Ministers must lay before the National Assembly for Wales annual reports on—
 - (a) their compliance with the duty imposed by subsection (2), and
 - (b) their exercise of the functions conferred by subsection (5).
- (9) The Welsh Ministers may by order amend subsection (3) to substitute a different period as the determination period.”