

Environment, Planning and Countryside Committee

EPC(2) 14-06 (p4) Explanatory Memorandum

To: Business Committee

From: Carwyn Jones AM

Minister for Environment, Planning and Countryside

Explanatory Memorandum

Town And Country Planning (General Development Procedure) (Amendment) (Wales) Order 2006

Summary

This Order amends the Town and Country Planning (General Development Procedure Order) 1995 [S.I.1195/419]. It makes provision for access statements, which are required to accompany certain applications for planning permission.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to the Town and Country Planning (General Development Procedure) (Amendment) (Wales) Order 2006, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Power

3. The powers enabling this Instrument to be made are contained in section 62(5)(b) of the Town and Country Planning Act 1990 as inserted by section 42(1) of the Planning and Compulsory Purchase Act 2004. These powers have been conferred on the National Assembly for Wales. Responsibility for issues relating to the contents of this Order have been delegated to my portfolio as Minister for Environment, Planning and Countryside.

Effect

4. The measure would amend the Town and Country Planning (General Development Procedure) Order 1995 [S.I.1995/419] in terms of access statements accompanying certain planning applications.
5. There is a separate explanatory memorandum and regulatory appraisal for the proposed statutory instrument amending The Planning (Listed Building and Conservation Areas) Regulations 1990 in

terms of access statements accompanying applications for listed building consent.

6. The purpose of the access statement would be to explain and justify the access principles and concepts on which a development proposal is based, and how these will be reflected in individual aspects of the scheme. It should be proportionate to the development proposed and would support other more detailed material submitted as part of certain applications for planning permission or listed building consent. It would ensure that local planning authorities (LPAs) have sufficient information to properly consider access issues against relevant policies in their development plans.

7. Places with good access for the disabled also provide better access to others with mobility problems and parents with young children. Promotion of access statements through this amendment is a critical planning tool in the delivery of the Assembly Government policy on quality design and social inclusion across the country. The inclusiveness of design can make a difference in creating places that will stand the test of time, and be valued by their community. Well designed, inclusive and accessible places last longer and are easier to maintain, so the costs of good design is an investment repaid over time.

8. Access statements for listed buildings consent applications and certain planning applications will also ensure consistency across the development control system.

9. Section 59 of the Town and Country Planning Act 1990 requires the National Assembly for Wales to make a Development Order. A Development Order can either grant planning permission for the development specified in the Order or set out the procedures to be followed in dealing with applications for planning permission. The Town and Country Planning (General Development Procedure) Order 1995 sets out the procedures to be followed in connection with planning applications, appeals to the National Assembly for Wales and related matters so far as these are not laid down in the Town and Country Planning Act 1990 and the Town and Country Planning (Applications) Regulations 1988 [S.I.1988/1812]. It also deals with the maintenance of registers of planning applications, applications for certificates of lawful use or development, and other related matters. This Order amends the 1995 Order.

10. Section 62 of the 1990 Act (substituted by section 42 of the Planning and Compulsory Purchase Act 2004) provides that a development order may make provision for applications for planning permission made to a local planning authority. Section 62(5) provides that a development order must require that an application for planning permission of such description as is specified must be accompanied by a statement about how issues relating to access to the development have been dealt with. This Order inserts a new article 4D into the 1995 Order setting out the type of application to which the requirement for an access statement applies and setting out the form and content of that statement.

Target Implementation

11. It is intended that the Instrument be made on 13 December 2006. The coming into force date is yet to be determined. In England, secondary legislation came into force in August 2006 in relation to combined design and access statements (SIs 2006/1062 and 2006/1063). In Wales, implementation

has been scheduled later to enable full consideration of the Welsh context.

12. This Order is being processed in tandem with The Planning (Listed Buildings and Conservation Areas) (Amendment) (Wales) Regulations 2006.

13. The implications of delaying both this Order and those Regulations for LPAs and applicants would be that requirements for certain accessibility information would depend upon the policy put in place in a particular area rather than a mandatory nation-wide requirement which would provide clarity for everyone and a level playing field for developers. It would mean the continued potential for costly solutions being required later in the planning and development process where they had not been considered at the earliest application stages, and that social exclusion in the built environment would continue to be inadequately addressed. Implications of delay for the Assembly Government would be failure to implement legislation which is supportive of the Disability and Equality Duty to be placed on public authorities from December 2006, under the Disability Discrimination Act 2005.

Financial Implications

14. It is anticipated that there will be no financial implications for the Assembly Government arising from implementing this Order.

15. There may be a small administrative cost to LPAs in checking for and putting access statements on the public register, commenting on their appropriateness and monitoring their effectiveness. This may require a greater level of knowledge and training among staff in the LPAs. This will entail some costs in terms of staff resources, but these costs would also be the outcome of imposing requirements through the development plan anyway. LPAs should already be considering accessibility issues under the Disability and Equality Duty, so the training costs etc would be required anyway. These costs cannot be quantified but will be met from existing budgets.

16. Applicants will incur a cost in having to prepare a statement (where it is required) and may have to seek professional advice. However, even if the requirement was not made statutory, if applied through development plan policy, these costs would still need to be incurred. Most developers would already provide this information for public sector clients (under the Disability Discrimination Act 2005), and already need to provide information on internal accessibility issues as part of the requirements under Part M of the Building Regulations. This requirement would not entail significant extra detail or cost – the statements would make the requirement more transparent to the LPA and community. It is not possible to quantify the cost of preparing a statement, as its length and content would be proportionate to the type of development proposed; however, it is anticipated that it would not comprise a significant proportion of the cost of preparing documents required in relation to the application.

Regulatory Appraisal

17. A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

Consultation

With Stakeholders

18. A consultation on 'Changes to the Development Control System in Wales' took place from 20 July to 28 September 2006 and contained the principles of access statements and the draft policy framework for the necessary Instruments, together with draft regulatory appraisals. These principles will be introduced in the Order and Regulations. That policy framework will be finalised to issue in 2007 to complement the Order and Regulations.

19. A list of consultees is attached at Annex A to the Regulatory Appraisal. The consultation was also placed on the Assembly web-site and a press notice was issued on 19 July ('New Measures to Improve Access for Disabled People').

20. 37 responses were received on the issue of access statements. 51% of these responses specified their support or favour of statutory access statements. 6% of respondents (i.e. two respondents) specified they did not want statutory access statements introduced (reasons given were that it would be a regulatory burden on developers, amenity groups and LPAs; that sufficient powers exist under the 1995 Order for LPAs to require a developer to supply reasonably necessary information; and that a statutory requirement would appear onerous and instead the requirement should be site specific and should be dealt with through the development plan and supplementary planning guidance). 43% of respondents just made comments, many of which apply to guidance rather than the statutory instruments. The summary report of the analysis of the consultation responses on access statements is enclosed. The Order has not been redrafted as a result of consultation responses received.

With Subject Committee

21. This Order was notified to the Environment, Planning and Countryside Committee, via my Ministerial Report on 13 July 2006 (EPC(2)-11-06 (p.1), Annex 1 item no.6). It was also notified to the Committee, via the list of forthcoming legislation on 28 September 2006 (EPC(2)-12-06(p.3), Annex 2 item no.62). The Order was identified for detailed scrutiny and will be scrutinised on 26 October 2006.

Recommended Procedure:

22. Subject to the views of the Business Committee, I recommend that this Order proceed to Plenary under Standard procedure, to give members an opportunity to debate it.

Compliance

23. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);

- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

24. . The information in this Memorandum has been cleared with Legal Services (LS)

Drafting lawyer: Elaine Osborne, (ext 5663).

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Carwyn Jones Am October 2006

Minister For Environment, Planning And Countryside