

# SL(5)550 – The Planning Applications (Temporary Modifications and Disapplication) (Wales) (Coronavirus) Order 2020

## Background and Purpose

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This Order makes amendments to the following Orders:

- The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (the “2012 Order”); and
- The Developments of National Significance (Procedure) (Wales) Order 2016 (the “2016 Order”).

The Finance Minister and Trefnydd, Rebecca Evans, explained why the Welsh Government considered that these amendments were needed in a letter to the Llywydd, dated 18 May 2020:

“The travel restrictions and closure of premises necessary to slow the spread of COVID-19 have prevented the submission of certain planning applications because it is not possible to comply with pre-application procedures. The order is intended to temporarily modify planning procedures in relation to the period beginning with 19 May and ending with 18 September (the temporary period) to remove these barriers and enable the subsequent submission of planning applications for these developments”.

As such, this Order inserts provisions into the 2012 Order and the 2016 Order which modify or disapply certain requirements from 19 May 2020 to 18 September 2020.

Article 2 of the Order inserts a new article 2G into the 2012 Order. Article 2G modifies Part 1A of the 2012 Order, which makes provision about the consultation that must be carried out before making an application for planning permission for major development.

The new article 2G(3) replaces the requirement to make information associated with a proposed planning application available locally for inspection, with a requirement to make the documents available on a website and in hard copy, if requested. As such, a modified form of the notice that must be placed on or near the land to which the proposed application relates and sent to owners and occupiers of adjoining land is provided. The same modified form of notice is to be used to notify community consultees.

New article 2G(4) modifies article 2C of the 2012 Order to provide that if hard copies of any documents have been requested, an application must not be submitted before the end of the period of 14 days beginning with the day on which the last document is sent.

New article 2G(7) modifies article 2F of the 2012 Order to require a pre-application consultation report to include confirmation that the modified requirements (to make information about the proposed application available on a website and to provide hard copies of such information where requested) have been discharged. A statement confirming whether hard copies have been requested is also to be included.

Article 3 amends article 16 of the 2012 Order to extend the time that community councils have to respond when notified of a planning application, from 14 days to 21 days.



Article 4 disapplies the requirement in the 2016 Order for a person to deposit a hard copy of an application for planning permission for development of national significance with the Welsh Ministers and the Local Planning Authority when making the application electronically.

## Procedure

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Negative.

## Technical Scrutiny

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No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

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The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly**

The 21 day rule under the Statutory Instruments Act 1946 (incorporated in Schedule 10 of the Government of Wales Act 2006) provides that instruments should be laid 21 days before they come into force. This enables Members to seek to annul such instruments before they have effect, as confusion can be caused if legislation is annulled after it has been implemented.

The Order was laid on 18 May, and came into force the following day, 19 May. In this case, the Welsh Government considers that the circumstances justify a breach of the 21 day rule. We note the letter sent by Rebecca Evans, Minister for Finance and Trefnydd to the Llywydd, dated 18 May 2020. This states:

The Order is required to come into force as soon as possible, so adjustments to planning procedures can mitigate the effects of COVID-19 restrictions on travel and the opening of premises, contributing to a functioning planning system. It will enable planning permissions to be submitted so that, if granted, the construction sector can implement them as soon as the restrictions are eased.

Not bringing the Order into force straight away will cause an increasing backlog of planning applications waiting to be submitted, which would have consequential impacts for the construction sector, and economy, at a time when rapid reversal of financial losses is important to lessen the longer term economic and social damage being caused. Not adhering to the 21-day convention is thought necessary and justifiable in this case.

### **2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Assembly**

Paragraph 4.3 of the Explanatory Memorandum states that “due to the urgent nature of this amendment, the Welsh Government has not undertaken a consultation on these proposals”. The Welsh Government has laid a detailed Explanatory Memorandum, and a Regulatory Impact Assessment has been prepared in respect of this Order. Paragraph 4.4 of the Explanatory Memorandum (at page 5) states as follows:

The amendments are required immediately in relation to a relatively short period so adjustments to planning procedures can mitigate the effects of COVID-19 restrictions on travel and the opening of premises on specific parts of the planning system. The amendments will enable planning



applications to be submitted by developers, avoiding an increasing backlog of cases, and enabling implementation of consents as soon as COVID-19 restrictions are eased.

## Implications arising from exiting the European Union

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No implications are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Government Response

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A Welsh Government response is not required.

### **Legal Advisers**

**Legislation, Justice and Constitution Committee**

**June 2020**



Senedd Cymru

**Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad**

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Welsh Parliament

**Legislation, Justice and Constitution Committee**