WELSH STATUTORY INSTRUMENTS

2015 No. 1522 (W. 179)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015

Made - - - -	*6 July 2015*
Coming into force - -	*1 October 2015*

The Welsh Ministers, in exercise of the powers conferred on them by sections 303 and 333(2A) of the Town and Country Planning Act 1990(**1**) make the following Regulations.

In accordance with section 303(8) of that Act, a draft of this instrument was laid before and approved by resolution of the National Assembly for Wales.

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Fees for Applications, Deemed Applications and Site Visits) (Wales) Regulations 2015 and they come into force on 1 October 2015.

(2) These Regulations apply in relation to Wales.

(3) These Regulations apply—

(a) to applications for planning permission deemed to have been made, by virtue of section 177(5) of the 1990 Act (grant or modification of planning permission on appeals against enforcement notices)(**2**), in connection with an enforcement notice issued on or after the date on which these Regulations come into force; and

(b) to the following applications and site visits made on or after the date on which these Regulations come into force—

(i) applications for planning permission;

(ii) applications for approval of reserved matters(**3**);

(**1**) 1990 c. 8. Section 303 was substituted by section 199 of the Planning Act 2008 (c. 29). See section 336(1) of the 1990 Act for the meaning of "prescribed". Other amendments are not relevant to these Regulations. 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**) Section 177(5) was amended by section 32 of, and paragraphs 8 and 24(3) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34) and by section 123(1) and (6) of the Localism Act 2011 (c. 20).

(**3**) "Reserved matters" are defined in section 92(1) of the 1990 Act.

(iii) applications under section 191 of the 1990 Act (certificate of lawfulness of existing use or development)(**4**);

(iv) applications under section 192 of the 1990 Act (certificate of lawfulness of proposed use or development)(**5**);

(v) applications for consent for the display of advertisements;

(vi) applications under the General Permitted Development Order referred to in regulation 13;

(vii) site visits to a mining site or a landfill site;

(viii) applications under planning condition; and

(ix) applications under section 96A(4) of the 1990 Act (power to make non-material changes to planning permission)(**6**).

Interpretation

2.—(1) In these Regulations—

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

"the 1989 Regulations" ("*Rheoliadau 1989*") means the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989(**7**);

"the 1992 Regulations" ("*Rheoliadau 1992*") means the Town and Country Planning (Control of Advertisements) Regulations 1992(**8**);

"the Development Management Procedure Order" ("*y Gorchymyn Gweithdrefn Rheoli Datblygu*") means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(**9**);

"the General Permitted Development Order" ("*y Gorchymyn Datblygu Cyffredinol a Ganiateir*") means the Town and Country Planning (General Permitted Development) Order 1995(**10**);

"dwellinghouse" ("*tŷ annedd*") means a building(**11**) which is used as a single private dwellinghouse and for no other purpose;

"glasshouse" ("*tŷ gwydr*") means a building which—

(a) has not less than three-quarters of its total external area comprised of glass or other translucent material;

(b) is designed for the production of flowers, fruit, vegetables, herbs or other horticultural produce; and

(c) is used, or is to be used, solely for the purposes of agriculture;

"landfill permission" ("*caniatâd tirlenwi*") means any planning permission for—

(**4**) Section 191 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34) and was amended by section 124(3) of the Localism Act 2011 (c. 20) and by section 58(1) of, and paragraph 6(1) and (3) of Schedule 4 to, the Mobile Homes (Wales) Act 2013 (2013 anaw 6).
(**5**) Section 192 was substituted by section 10(1) of the Planning and Compensation Act 1991 (c. 34).
(**6**) Section 96A was inserted by section 190(1) and (2) of the Planning Act 2008 (c. 29) and amended by S.I. 2014/1770 (W. 182).
(**7**) S.I. 1989/193. Relevant amending instruments are S.I. 1990/2473, S.I. 1991/2735, S.I. 1992/1817, S.I. 1992/3052, S.I. 1993/3170, S.I. 1996/525, S.I. 1997/37, S.I. 2002/1876 (W. 185), S.I. 2002/2258 (W. 222), S.I. 2003/394 (W. 53), S.I. 2004/2736 (W. 243), S.I. 2006/948 (W. 97)S.I. 2006/1052 (W. 108), S.I. 2006/1282, and S.I. 2009/851 (W. 76).
(**8**) S.I. 1992/666. Regulation 9 was substituted by regulation 2 of S.I. 2012/791 (W. 106). See regulation 15 of S.I. 2008/1848 (W. 177) in relation to the application of the 1992 Regulations to the display on any site in a voting area of an advertisement relating specifically to a referendum. Other amendments are not relevant to these Regulations.
(**9**) S.I. 2012/801 (W. 110), amended by S.I. 2014/1772 (W. 183). Other amendments are not relevant to these Regulations.
(**10**) S.I. 1995/418.
(**11**) "Building" includes a part of a building, see definition in section 336(1) of the 1990 Act.

(a) the operational development of land designed to be used wholly or mainly for the purpose of, or

(b) any material change of use to,

a waste disposal site for the deposit of waste onto or into the land;

"landfill site" ("*safle tirlenwi*") means the land to which a landfill permission relates;

"mineral permission" ("*caniatâd mwynau*") means any planning permission for development consisting of—

(a) the winning and working of minerals; or

(b) the depositing of mineral waste;

"mining site" ("*safle mwyngloddio*") means—

(a) the total area of the land to which any two or more mineral permissions relate where the total area of the land—

(i) is worked as a single site; or

(ii) is treated as a single site by the local planning authority for the purposes of Schedule 13 to the Environment Act 1995 (review of old mineral planning permissions)(**12**) or Schedule 14 to that Act (periodic review of mineral planning permissions)(**13**); and

(b) in any other case, the land to which a mineral permission relates;

"outline planning permission" ("*caniatâd cynllunio amlinellol*") has the same meaning as in article 2(1) of the Development Management Procedure Order;

"site visit" ("*ymweliad safle*") means entry by a local planning authority on to a mining site or landfill site—

(a) to ascertain whether there is or has been any breach of planning control on the site;

(b) to determine whether any of the powers conferred on the local planning authority by Part 7 of the 1990 Act (enforcement)(**14**) should be exercised in relation to the site;

(c) to determine how any such power should be exercised in relation to the site; or

(d) to ascertain whether there has been any compliance with any requirement imposed as a result of any such power having been exercised in relation to the site;

"use of land" ("*defnydd o dir*") includes use of land for the winning and working of minerals.

(2) Expressions used in regulation 12 and Schedule 2 have the meaning which they bear in the 1992 Regulations.

(3) In these Regulations references to a local planning authority are references to a local planning authority in Wales.

(**12**) 1995 c. 25. Schedule 13 was amended by: sections 76(1) and 93 of, and paragraph 10 of Schedule 10 and paragraph 13 of Schedule 15 to, the Countryside and Rights of Way Act 2000 (c. 37); sections 3 and 4 of, and Part 3 of Schedule 1 and paragraph 60 of Schedule 2 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11) and by S.I. 2004/3156 (W. 273).

(**13**) Schedule 14 was amended by: section 118(2) of, and paragraph 19(1) and (4) of Schedule 7 to the Planning and Compulsory Purchase Act 2004 (c. 5); section 10(1) of, and paragraphs 1 to 9 of Schedule 3 to the Growth and Infrastructure Act 2013 (c. 27), sections 3 and 4 of, and Part 3 of Schedule 1 and paragraph 60 of Schedule 2 to, the Planning (Consequential Provisions) (Scotland) Act 1997 (c. 11) and by S.I. 2004/3156 (W. 273).

(**14**) Part 7 was amended by: sections 1 to 11, 32 and 84 of, and paragraph 11 of Schedule 1, paragraphs 22 to 33 of Schedule 7, and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34); section 20(4)(b) of and paragraph 24(5) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19); section 196(4) of, and paragraphs 1, 5 and 6 of Schedule 10 and paragraph 3 of Schedule 11 to, the Planning Act 2008 (c. 29); sections 123 to 126 of the Localism Act 2011 (c. 20); section 63 of, and paragraphs 4, 5 and 6 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24); section 58(1) of, and paragraph 6(1) and (3) of Schedule 4 to, the Mobile Homes (Wales) Act 2013 (2013 anaw 6) and by S.I. 2004/3156 (W. 273), S.I. 2009/1307 and by S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.

Fees for planning applications

3.—(1) Subject to regulations 4 to 8, where an application is made to a local planning authority for planning permission for the development of land or for the approval of reserved matters, a fee must be paid to that authority.

(2) The fee payable in respect of the application is calculated in accordance with Schedule 1.

(3) Where a fee is payable in respect of an application, the fee must be paid to the local planning authority with whom the application is lodged and must accompany the application.

(4) Where the local planning authority who receive the fee in accordance with paragraphs (1) to (3) are not the local planning authority who have to determine the application, they must remit the fee to that authority at the same time as they forward the application to them.

(5) Any fee paid pursuant to this regulation must be refunded if the application is rejected as invalid.

Exceptions – access and facilities for disabled persons

4.—(1) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied that it relates solely to—

(a) the carrying out of operations for the alteration or extension of an existing dwellinghouse; or

(b) the carrying out of operations within the curtilage of an existing dwellinghouse (other than the erection of a dwellinghouse),

for the purpose, in either case, of providing means of access to or within the dwellinghouse for a disabled person who is resident in, or is proposing to take up residence in, that dwellinghouse, or of providing facilities designed to secure that person's greater safety, health or comfort.

(2) Regulation 3 does not apply where the local planning authority to whom the application is made are satisfied that it relates solely to the carrying out of operations for the purpose of providing means of access for disabled persons to or within a building or to premises to which members of the public are admitted (whether on payment or otherwise).

(3) For the purposes of this regulation a person is disabled if—

(a) the person's sight, hearing or speech is substantially impaired;

(b) the person has a mental disorder; or

(c) the person is physically substantially disabled by any illness, any impairment present since birth, or otherwise.

(4) In this regulation "mental disorder" ("*anhwylder meddyliol*") means any disorder or disability of the mind.

Exceptions – permission granted by General Permitted Development Order not applying

5.—(1) Regulation 3 does not apply where the local planning authority are satisfied that—

(a) the application relates solely to development which is within one or more of the classes specified in Schedule 2 to the General Permitted Development Order(**15**); and

(**15**) Schedule 2 was amended by section 76(7) of the Utilities Act 2000 (c. 27) and S.I. 1996/528, S.I. 1997/366, S.I. 1999/1661, S.I. 2001/1149, S.I. 2001/4050, S.I. 2002/1878 (W. 187), S.I. 2003/2155, S.I. 2004/945, S.I. 2006/124 (W. 17), S.I. 2006/1386 (W. 136), S.I. 2007/952 (W. 83), S.I. 2008/502 (W. 43), S.I. 2009/2193 (W. 185), S.I. 2011/2085, S.I. 2012/1346 (W. 167), S.I. 2012/2318 (W. 252), S.I. 2013/1776 (W. 177), S.I. 2014/592 (W. 69) and S.I. 2014/2692. Other amendments are not relevant to these Regulations.

(b) the permission granted by article 3 of that Order (permitted development)(**16**) does not apply in respect of that development by reason of (and only by reason of)—

(i) a direction made under article 4 of that Order (directions restricting permitted development)(**17**) which is in force on the date when the application is made; or

(ii) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act (control over development)(**18**) otherwise than by that Order.

(2) Applications referred to in paragraph (1)(a) must be construed as including applications for planning permission for the continuance of a use of land, or the retention of buildings or works, without compliance with a condition subject to which a previous planning permission was granted, where the condition prohibits or limits the carrying out of any development within one or more of the classes specified in Schedule 2 to the General Permitted Development Order.

Exceptions – application relating to same use class necessary because of condition

6. Regulation 3 does not apply where the local planning authority are satisfied that—

(a) the application relates solely to the use of a building or other land for a purpose of any class specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987(**19**);

(b) the existing use of that building or other land is for another purpose of the same class; and

(c) the making of an application for planning permission in respect of the use to which the application relates is necessary by reason of (and only by reason of) the requirements of a condition imposed on a permission granted or deemed to be granted under Part 3 of the 1990 Act.

Exceptions – consolidation of subsisting minerals permissions

7. Regulation 3 does not apply in relation to an application to a local planning authority for permission to carry out development consisting of the winning and working of minerals where the application—

(a) is for a permission which consolidates two or more subsisting permissions; and

(b) does not seek permission for development which is not authorised by a subsisting permission.

Exemptions – application following withdrawal of earlier application or refusal of planning permission etc.

8.—(1) Where all the conditions set out in paragraph (2) are satisfied, regulation 3 does not apply to—

(a) an application for planning permission which is made following the withdrawal (before notice of decision was issued) of a valid application for planning permission made by or on behalf of the same applicant;

(**16**) Article 3 was amended by section 76(7) of the Utilities Act 2000 (c. 27), S.I. 1999/293, S.I. 1999/1783, S.I. 2004/3156 and S.I. 2006/1386. Other amendments are not relevant to these Regulations.

(**17**) Article 4 was amended by S.I. 1996/528, S.I. 2006/124 (W. 17), S.I. 2006/1386 (W. 136) and S.I. 2013/1776 (W. 177). Other amendments are not relevant to these Regulations.

(**18**) Part 3 was amended by: section 16(1) of the Transport and Works Act 1992 (c. 42); sections 40 and 41 of the Planning and Compulsory Purchase Act 2004 (c. 5) and section 21 of the Growth and Infrastructure Act 2013 (c. 27). Other amendments are not relevant to these Regulations.

(**19**) S.I. 1987/764. The Schedule was amended by S.I. 1991/1567, S.I. 1992/610, S.I. 1994/724, S.I. 1995/297 and S.I. 2006/1386 (W. 136). Other amendments are not relevant to these Regulations.