



Planning (Wales) Act 2015

2015 anaw 4

PART 6

DEVELOPMENT MANAGEMENT ETC

Requirements for applications to local planning authorities

29 Invalid applications: notice and appeal

- (1) TCPA 1990 is amended as follows.
- (2) After section 62 insert—

“Wales: appeal against notice that application is not valid

62ZA Wales: notice that application is not valid

- (1) This section applies where an application is made to a local planning authority in Wales—
 - (a) for planning permission, or
 - (b) for any consent, agreement or approval required by any condition or limitation subject to which planning permission has been granted.
- (2) In the case of an application for planning permission, if the authority think the application (or anything accompanying it) does not comply with a validation requirement imposed under section 62, they must give the applicant notice to that effect.
- (3) The notice must—
 - (a) identify the requirement in question, and
 - (b) set out the authority's reasons for thinking the application does not comply with it.

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- (4) In the case of an application for a consent, agreement or approval mentioned in subsection (1)(b), the authority must give notice to the applicant if they think that—
- (a) the application does not comply with the terms of the planning permission in question, or
 - (b) a period prescribed under section 74(1)(e) or 78(2) does not begin to run in relation to the application,
- by virtue of a failure to include information in the application or to provide documents or other materials with it (whether at all or in a particular manner).
- (5) The notice must identify—
- (a) the information, documents or materials in question, and
 - (b) the paragraph of subsection (4) which the authority think applies.
- (6) A development order may make provision about the giving of notice under this section (including provision about information to be included in the notice and how and when the notice is to be given).
- (7) A requirement imposed under section 62 is a validation requirement in relation to an application for planning permission if the effect of the application failing to comply with the requirement is that—
- (a) the local planning authority must not entertain the application (see section 327A), or
 - (b) the period prescribed under section 78(2) does not begin to run in relation to the application.

62ZB Right to appeal to Welsh Ministers against notice

- (1) If a local planning authority give an applicant notice under section 62ZA, the applicant may appeal to the Welsh Ministers.
- (2) In a case relating to an application for planning permission, the appeal may be brought on any one or more of the following grounds—
- (a) that the application complies with the requirement identified in the notice given under section 62ZA(2);
 - (b) that the application is not one to which the requirement applies;
 - (c) that the requirement is not a validation requirement in relation to the application;
 - (d) in the case of a requirement imposed under subsection (3) of section 62, that the requirement does not comply with subsection (4A) of that section.
- (3) In a case relating to an application for a consent, agreement or approval mentioned in section 62ZA(1)(b), the appeal may be brought on any one or more of the following grounds—
- (a) that the application included the information, or was accompanied by the documents or other materials, identified in the notice given under section 62ZA(4);
 - (b) in a case where notice is given under section 62ZA(4)(a), that the provision of the information, documents or materials is not required in order to comply with the terms of the planning permission;

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- (c) in a case where notice is given under section 62ZA(4)(b), that the period prescribed under section 74(1)(e) or 78(2) (as the case may be) begins to run in relation to the application irrespective of whether the information, documents or materials are provided.
- (4) The appeal must be made by giving notice that complies with any requirements prescribed by a development order.
- (5) The requirements may relate to how and when the notice is to be given and the information that is to accompany it.
- (6) The appeal is to be determined on the basis of representations in writing.
- (7) The Welsh Ministers must either—
 - (a) dismiss the appeal, or
 - (b) quash or vary the notice to which it relates.
- (8) The Welsh Ministers' decision on the appeal is final.

62ZC Appeals under section 62ZB: determination by appointed person

- (1) Unless a direction otherwise is given under section 62ZD(1), an appeal under section 62ZB is to be determined by a person appointed by the Welsh Ministers.
- (2) In this section and section 62ZD, “appointed person” means a person appointed under subsection (1).
- (3) At any time before an appointed person determines an appeal, the Welsh Ministers may—
 - (a) revoke the person's appointment, and
 - (b) appoint another person under subsection (1) to determine the appeal.
- (4) An appointed person has the same powers and duties in relation to an appeal as the Welsh Ministers have under sections 62ZB(7) and 322C and under any regulations made under section 323A.
- (5) An appointed person's decision on an appeal is to be treated as the decision of the Welsh Ministers.
- (6) The validity of an appointed person's decision on an appeal may not be questioned by the appellant or the local planning authority in legal proceedings on the ground that the appeal ought to have been determined by the Welsh Ministers and not by an appointed person, unless the appellant or the authority challenge the appointed person's power to determine the appeal before the person's decision is given.

62ZD Appeals under section 62ZB: determination by Welsh Ministers in place of appointed person

- (1) The Welsh Ministers may direct that an appeal under section 62ZB which would otherwise be determined by an appointed person is instead to be determined by the Welsh Ministers.
- (2) The Welsh Ministers must serve a copy of the direction on—

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- (a) the person (if any) appointed to determine the appeal,
 - (b) the appellant, and
 - (c) the local planning authority.
- (3) In determining the appeal, the Welsh Ministers may take into account any report made to them by a person previously appointed to determine the appeal.
- (4) The Welsh Ministers may by a further direction revoke a direction under subsection (1) at any time before the appeal is determined.
- (5) The Welsh Ministers must serve a copy of a direction under subsection (4) on—
- (a) the person (if any) previously appointed to determine the appeal,
 - (b) the appellant, and
 - (c) the local planning authority.
- (6) Where the Welsh Ministers give a direction under subsection (4)—
- (a) they must appoint a person (the “new appointee”) under section 62ZC(1) to determine the appeal;
 - (b) anything done by or on behalf of the Welsh Ministers in connection with the appeal that might have been done by an appointed person is, unless the new appointee directs otherwise, to be treated as having been done by the new appointee;
 - (c) subject to that, section 62ZC applies to the appeal as if no direction under subsection (1) had been given.”
- (3) In section 79 (determination of appeals under section 78), after subsection (1) insert—
- “(1A) On an appeal under section 78, the Welsh Ministers may decide whether a requirement imposed under subsection (3) of section 62 in relation to the application complies with subsection (4A) of that section.
- (1B) But subsection (1A) does not apply if the Welsh Ministers have previously decided whether the requirement complies with section 62(4A) on an appeal under section 62ZB.”

Commencement Information

- I1** S. 29 partly in force; s. 29 in force for specified purposes at 6.9.2015, see s. 58(2)(b)(4)(b)
- I2** S. 29 in force at 16.3.2016 in so far as not already in force by S.I. 2016/52, art. 5(a) (with arts. 9, 10)

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