



Llywodraeth Cymru
Welsh Government

Circular 001/2020

Guidance on the Town and Country Planning (Major Residential Development) (Notification) (Wales) Direction 2020

January 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

GUIDANCE ON THE TOWN AND COUNTRY PLANNING (MAJOR RESIDENTIAL DEVELOPMENT) (NOTIFICATION) (WALES) DIRECTION 2020

Audience	Local Planning Authorities; Businesses; Government Agencies; Other Public Sector Groups; Professional Bodies and Interest Groups; Voluntary Groups and the general public.
Overview	This guidance and direction set out requirements for local planning authorities to refer certain planning applications to the Welsh Ministers to enable them to decide whether they wish to call in the application for their determination.
Action required	<p>For local planning authorities to be aware that from 15 January 2020 this Circular and Direction takes effect and requires:</p> <p>Local planning authorities to refer applications, to the Welsh Ministers where they are minded to grant planning permission for residential development of 10 or more residential units or residential development on 0.5 hectares or more of land which is not in accordance with one or more provisions of the development plan in force.</p> <p>This Circular and Direction amend the provisions of The Town and Country Planning (Notification) (Wales) Direction 2012 and Welsh Government Circular 07/12 regarding “Significant Residential Development”. The provisions regarding “Significant Residential Development” set out in paragraphs 16 to 18 of Circular 07/12 will no longer apply to applications for planning permission made on or after 15 January 2020.</p>
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Related documents	Planning Policy Wales (PPW)

Contents	Paragraph(s)
Introduction	1 - 7
Context for the 2020 Direction	8 - 10
Commencement and Extent	11 - 15
Purpose and Scope	16 - 17
Notification Requirements	18 - 19
Restriction on the Grant of Planning Permission	20 - 21
Monitoring and Review	22
Annex 1 - THE TOWN AND COUNTRY PLANNING (MAJOR RESIDENTIAL DEVELOPMENT) (NOTIFICATION) (WALES) DIRECTION 2020	

GUIDANCE ON THE TOWN AND COUNTRY PLANNING (MAJOR RESIDENTIAL DEVELOPMENT) (NOTIFICATION) (WALES) DIRECTION 2020

INTRODUCTION

1. Section 77 of the Town and Country Planning Act 1990 (the “1990 Act”) allows the Welsh Ministers to give directions requiring applications for planning permission, or for the approval of any local planning authority required under a development order, to be referred to them instead of being determined by local planning authorities.
2. Article 14(1) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (the DMPWO) gives the Welsh Ministers the power to issue directions to local planning authorities requiring them to consult with specified persons before granting planning permission for certain types of development. Article 18(1) of the DMPWO provides that the Welsh Ministers may give directions restricting the grant of planning permission by a local planning authority, either indefinitely or during such period specified in the directions, in respect of any development or in respect of any class so specified. In accordance with article 18(3), a local planning authority must deal with applications for planning permission for development to which such a direction applies in such manner as to give effect to the direction.
3. Article 22(5) of the DMPWO provides that an LPA must provide such information about applications made under article 4 and 5 of that Order (applications for approval of reserved matter and applications for planning permission respectively), including information as to the manner in which any such application has been dealt with, as the Welsh Ministers may by direction require. Any such direction may include provision as to the persons to be informed and the manner in relation to which the information is to be provided.
4. The Town and Country Planning (Major Residential Development) (Notification) (Wales) Direction 2020 (the 2020 Direction) is set out at Annex 1.
5. The 2020 Direction requires local planning authorities when dealing with applications for planning permission made on or after 15 January 2020 to refer those applications to the Welsh Ministers where they are minded to grant planning permission for residential development of 10 or more residential units, or residential development on 0.5 hectares or more of land, which is not in accordance with one or more provisions of the development plan in force. The 2020 Direction replaces the provisions regarding “Significant Residential Development” set out in The Town and Country Planning (Notification) (Wales) Direction 2012 (the 2012 Direction) and paragraphs 16 to 18 of Welsh Government Circular 07/12. Those provisions shall only apply to applications made before 15 January 2020.

6. Where a local planning authority is required to give such notification to the Welsh Ministers, the authority must not grant planning permission on the application until the expiry of the period of 21 days beginning with the date which the Welsh Ministers tell the authority in writing is the date upon which they received information specified in the Direction. However, the local planning authority may proceed to determine the application if before the expiry of that 21 day period, the Welsh Ministers notify the authority that the Welsh Ministers do not intend to call in the application in question under section 77 of the 1990 Act in respect of that application, or if the Welsh Ministers do not consider the application to be for *Major Residential Development*.
7. This guidance is intended to ensure that the Welsh Ministers are notified only where necessary and all decisions are taken at the appropriate level.

CONTEXT FOR THE 2020 DIRECTION

8. The 2020 Direction replaces the provisions relating to “Significant Residential Development” set out in the 2012 Direction and paragraphs 16 to 18 of Welsh Government Circular 07/12. The 2020 Direction applies to any application for planning permission made on or after 15 January 2020. It requires the Welsh Ministers to be notified of applications made on or after that date for any proposed residential development of 10 or more residential units (including flats), or residential development on 0.5 hectares or more of land, which is not in accordance with one or more provisions of the development plan in force which the authority do not propose to refuse. This aligns with the definition of major residential development in the DMPWO. The DMPWO defines major residential development as: a proposal to erect 10 or more dwellings or where the number of dwellings is not known (outline applications), the application site has an area of 0.5 hectares or more.
9. Planning Policy Wales (PPW) requires development plans to be effective, focused and deliverable, in line with Welsh Government priorities centred on placemaking and good planning outcomes for communities. It is essential that development plans are produced and reviewed and that allocations made in them are delivered in line with community expectations. The Welsh Government is concerned that speculative, unsustainable residential developments have been proposed outside of adopted development plans and this direction will allow the Welsh Ministers an opportunity to consider whether appropriate scrutiny has been given to such applications. The Welsh Ministers may choose to call in the planning application or, if appropriate, issue a direction that the application may not be approved until such time as directed by the Welsh Ministers.
10. The 2020 Direction introduces revised criteria that local planning authorities need to use to determine whether planning applications should be referred to the Welsh Ministers. It identifies the type of residential development which may raise issues of more than local importance and which the Welsh Ministers may wish to call in, which is the purpose of the notification process.

COMMENCEMENT AND EXTENT

11. With effect from 15 January 2020, for any application for planning permission made on or after this date the guidance contained in this circular and the 2020 Direction at Annex 1 will apply.
12. **The provisions in the 2012 Direction and Circular 07/12 relating to “Significant Residential Development” will continue to apply to applications made before 15 January 2020.** These provisions require local planning authorities to refer applications where they are minded to grant planning permission for residential development of more than 150 residential units, or residential development on more than 6 hectares of land, which is not in accordance with one or more provisions of the development plan in force.
13. This circular and the 2020 Direction at Annex 1 do not amend or cancel any of the remaining provisions in the 2012 Direction and Circular 07/12 in respect of:
 - Flood Risk Area Development;
 - Minerals Development;
 - Waste Development ; and
 - Aggregates Development in National Parks and Areas of Outstanding Natural Beauty.
14. This guidance and the 2020 Direction at Annex 1 apply only in relation to Wales.
15. The 2020 Direction does not affect the power of the Welsh Ministers under section 77 of the 1990 Act to direct that any particular planning application should be called in for their own determination, irrespective of whether it falls within the terms of either Direction, having regard to their policy on call-in.

PURPOSE AND SCOPE

16. The 2020 Direction clarifies the arrangements and criteria for consulting the Welsh Ministers in relation to planning applications for particular types of residential development. The purpose of the 2020 Direction is to give the Welsh Ministers an opportunity to consider whether to exercise their call-in powers under section 77 of the 1990 Act.
17. The effect of the 2020 Direction is to require local planning authorities to refer any application which falls within paragraph 3 of the 2020 Direction and in respect of which the authority does not propose to refuse planning permission, to the Welsh Ministers. Applications are required to be sent to the appropriate office of the Welsh Government in accordance with the provisions in paragraph 5 of the 2020 Direction.

NOTIFICATION REQUIREMENTS

18. The 2020 Direction introduces a notification requirement for local planning authorities to refer applications for *Major Residential Development* to the Welsh Ministers where the authority does not propose to refuse such an application.

Such information may be sent to Welsh Ministers electronically or in hard copy. The notification requirement is inclusive of the provision of the information specified in paragraph 5 of the 2020 Direction.

19. The 2020 Direction requires local planning authorities to refer applications where they are minded to grant planning permission for residential development of 10 or more residential units, or residential development on 0.5 hectares or more of land, which is not in accordance with one or more provisions of the development plan in force.

RESTRICTION ON THE GRANT OF PLANNING PERMISSION

20. Where the local planning authority is required to notify the Welsh Ministers the 2020 Direction places a restriction on the grant of planning permission for a period of 21 days, that period beginning with the date the planning authority is notified in writing by the Welsh Ministers as being the date that the information specified in paragraph 5 of the 2020 Direction was received.

21. The 2020 Direction permits the authority to proceed to determine the application before the expiry of the 21 day period in circumstances where the authority has received notification in writing that the Welsh Ministers do not intend to call in or do not consider the development to be notification *development*.

MONITORING AND REVIEW

22. The Welsh Government will closely monitor the number of applications that are referred to the Welsh Ministers resulting from this notification requirement and the number of applications that are consequently called in. Its effect will be reviewed when the 2020 Direction has been operating for an appropriate period of time.

Neil Hemington

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SUBORDINATE LEGISLATION

THE TOWN AND COUNTRY PLANNING (MAJOR
RESIDENTIAL DEVELOPMENT) (NOTIFICATION) (WALES)
DIRECTION 2020

WG20-001

The Welsh Ministers, in exercise of the powers conferred by articles 18(1), 20, 22(5) and 31 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(1), give the following Direction.

Commencement

1. This Direction comes into force on 15 January 2020.

Interpretation

2. In this Direction—

“electronic communication” (*“cyfathrebiad electronig”*) has the meaning given in section 15(1) of the Electronic Communications Act 2000 (general interpretation)(2)

“major residential development” (*“datblygiad preswyl mawr”*) means development which—

- (a) includes 10 or more dwellings; or
- (b) is residential development on a site having an area of 0.5 hectares or more; and
- (c) does not accord with the provisions of the development plan in force in the area where the application site is situated.

Application

3. This Direction applies to any application for planning permission —

- (a) relating to land in Wales;
- (b) made on or after 15 January 2020;
- (c) for development which is major residential development;
- (d) which the local planning authority does not propose to refuse.

Notification to the Welsh Ministers

4. Where a local planning authority do not propose to refuse an application for major residential development, the authority must notify the Welsh Ministers.

5. Where a local planning authority is required to notify the Welsh Ministers, they must as soon as practicable send to the Welsh Ministers by means of electronic communication or otherwise—

(1) S.I. 2012/801 (W. 110).

(2) 2000 c. 7. Section 15(1) was amended by section 406(1) of and paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

- (a) a copy of the application (including copies of any accompanying plans and drawings and any appropriate flood risk or other assessment) and supporting information;
- (b) a copy of the requisite notice;
- (c) a copy of any representations made to the authority in respect of the application (including any views expressed by a government department, another local planning authority or other consultee);
- (d) a copy of any report on the application prepared by an officer of the authority;
- (e) a copy of any screening opinion issued under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017(3);
- (f) a copy of any appropriate assessments carried out under the Conservation of Habitats and Species Regulations 2010(4);
- (g) a statement of the material considerations which the authority consider indicate (if such be the case) that an application for major residential development should be determined otherwise than in accordance with the local development plan adopted or approved in relation to the area where the application site is situated.

Relevant period before granting permission on a departure application

6. Subject to paragraph 7, where a local planning authority is required to notify the Welsh Ministers, the authority must not grant planning permission on the application until the expiry of the period of 21 days beginning with the date which the Welsh Ministers tell the authority in writing is the date upon which they received the information specified in paragraph 5.

7. The local planning authority may proceed to determine the application, if before the expiry of the period referred to in paragraph 6, the Welsh Ministers notify the authority that—

- (a) the Welsh Ministers do not intend to issue a direction under section 77 of the Town and Country Planning Act 1990 in respect of that application; or
- (b) the Welsh Ministers do not consider the development to be notification development.

Amendments to The Town and Country Planning (Notification) (Wales) Direction 2012

8. The Town and Country Planning (Notification) (Wales) Direction 2012 is amended as follows—

- (a) in paragraph 2 (Interpretation)—
 - (i) in the definition of “notification development” omit paragraph (b); and
 - (ii) omit the definition of “significant residential development”.
- (b) In paragraph 5 (Notification to the Welsh Ministers) omit reference to “significant residential development” in subparagraph (g).



Julie James

Minister for Housing and Local Government, one of the Welsh Ministers
9 January 2020

(3) S.I. 2017/567 (W. 136), to which there are amendments.

(4) S.I. 2010/490, to which there are amendments.