



Members' Research Service – QuickGuide 48 Gwasanaeth Ymchwil yr Aelodau – HysbysHwylus 48



Planning 8: Duration of permission

Under the *Town and Country Planning Act 1990* (TCPA 1990) (as amended)¹, every new full planning permission in Wales is deemed to be subject to a condition that development shall be commenced within five years – or any other such period as the planning authority imposes – of permission being granted. In England, this period has recently been reduced to three years.

See Planning Quick Guide 47: Application Process for information on the time frame for granting planning permission.

Section 91 of the 1990 Act provides:

91 General condition limiting duration of planning permission.

(1) Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of--

(a) five [*three*²] years beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or

(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.

(2) The period mentioned in subsection (1)(b) shall be a period which the authority consider appropriate having regard to the provisions of the development plan and to any other material considerations.

Some forms of planning permission are exempt from section 91, including any outline planning permission, retrospective planning permission and some kinds of minerals planning consents.

Where outline planning permission is granted for development, it is subject to the conditions in Wales that in the case of any 'reserved matter', application for approval must be made not later than three years after the grant of outline planning permission; and that the development itself must be begun not later than five years from the date of the grant of outline planning permission; or if later, two years from the final approval of the reserved matters. In England, this has recently been changed so that application for approval of 'reserved matters' must be within three years and development itself must start within two years of the approval of these matters.

Development is deemed to have been commenced when work begins on 'material operations' (as defined by section 56 of the TCPA 1990):

- any work of construction in the course of erection of a building;
- any demolition of a building;
- digging a trench to contain all or part of the foundations of a building;
- laying an underground main or pipe to the foundations of a building;
- any operation in the course of laying out or constructing a road or part of a road;
- any material change in use of land.

¹ The *Town and Country Planning Act 1990*,
<http://www.lexisnexis.com/uk/legal/results/docview>

² Amended to three years in England by Section 51(1)(a) of the *Planning and Compulsory Purchase Act 2004*. Commenced in England on 25 August 2005. This provision has not yet been commenced in Wales



Members' Research Service – QuickGuide 48 Gwasanaeth Ymchwil yr Aelodau – HysbysHwylus 48

Development carried out after the expiration of the date for commencement will constitute a breach of planning law and, accordingly, may be subject to enforcement procedures.

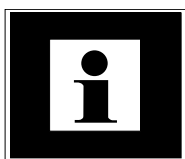
Retrospective Permission

Section 73a of the TCPA 1990 deals with the granting of permission for retrospective development.

It states:

- (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
- (2) Subsection (1) applies to development carried out--
 - (a) without planning permission;
 - (b) in accordance with planning permission granted for a limited period; or
 - (c) without complying with some condition subject to which planning permission was granted.
- (3) Planning permission for such development may be granted so as to have effect from--
 - (a) the date on which the development was carried out; or
 - (b) if it was carried out in accordance with planning permission granted for a limited period, the end of that period.

This process allows the LPA to publicise the application and listen to third party views on the development which has already taken place before deciding to grant or refuse planning permission³.



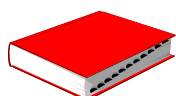
The statutory provisions cited above may be subject to subsequent amendment; the consolidated text of those provisions can be obtained from Butterworths' *LexisNexis* service:

http://assembly/presidingoffic/mrs/resources/electronic/qlinks_lexisnexis.htm



More Quick Guides:

[Full list of QuickGuides](#)



[Glossary of terms](#)

³ Moore, Victor; *A Practical Approach to Planning Law*, 9th ed. 2005, Oxford University Press