
WELSH STATUTORY INSTRUMENTS

2015 No. 1331

**The Town and Country Planning (Referrals and Appeals)
(Written Representations Procedure) (Wales) Regulations 2015**

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Town and Country Planning Act 1990;

“advertisement application” (“*cais hysbyseb*”) means an application for express consent to display an advertisement made under Part 3 of the Town and Country Planning (Control of Advertisements) Regulations 1992(1);

“advertisement consent appeal” (“*apêl caniatâd hysbyseb*”) means an appeal under section 78(1) of the Act (as applied by regulations made under section 220 of the Act) in relation to an advertisement application, except an appeal against the grant of any consent which is granted subject to conditions;

“appeal” (“*apêl*”) means, in relation to—

- (a) section 77 of the Act(2) or section 12 or 19 of the Listed Buildings Act(3), the determination of an application which has been referred to the Welsh Ministers, but does not include an application which is deemed to have been referred to the Welsh Ministers by virtue of regulation 9(3) of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012(4); and
- (b) section 78 or 208 of the Act(5) or section 20 of the Listed Buildings Act(6), an appeal made under that section;

“appellant” (“*apelydd*”) means, in the case of—

- (a) an application referred to the Welsh Ministers under section 77 of the Act or section 12 or 19 of the Listed Buildings Act, the person who made that application to the local planning authority;
- (b) an appeal under section 78 of the Act or section 20 of the Listed Buildings Act, the person whose application was refused, granted subject to conditions or not determined, by the local planning authority; and
- (c) an appeal under section 208 of the Act, the person on whom a notice has been served under section 207(1) of that Act;

“application” (“*cais*”) means, in relation to—

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- (1) S.I. 1992/666; Regulation 9 was substituted by S.I. 2012/791 (W. 106). Other amendments are not relevant to these Regulations.
 - (2) Section 77(6A) was inserted by S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.
 - (3) Section 12(4B) was inserted by S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.
 - (4) S.I. 2012/793 (W. 108).
 - (5) Section 78 was amended by section 197 of, and paragraphs 1 and 2 of Schedule 11 to the Planning Act 2008 (c. 29) and by S.I. 2014/2773 (W. 280). Section 208(2)(a) and (b) was substituted for section 208(2) and (3) by section 23(3) of the Planning and Compensation Act 1991 (c. 34), section 208(4) to (4C) was substituted by section 197 of, and paragraphs 1 and 4(1) and (2) of Schedule 11 to, the Planning Act 2008 (c. 29) and section 208(5B) was inserted by S.I. 2014/2773 (W. 280). Other amendments to sections 78 and 208 are not relevant to these Regulations.
 - (6) Section 20 was amended by S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.

- (a) section 77 of the Act or section 12 or 19 of the Listed Buildings Act, the application which has been referred to the Welsh Ministers;
- (b) section 78 of the Act or section 20 of the Listed Buildings Act, the application which is the subject of the appeal; and
- (c) section 208 of the Act, the notice served by the local planning authority under section 207(1) of that Act;

“document” (“*dogfen*”) includes a photograph, map or plan;

“dwellinghouse” (“*ty annedd*”) does not include a building containing one or more flats, or a flat contained within such a building;

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(7);

“householder appeal” (“*apêl deiliad ty*”) means an appeal under section 78(1)(a) of the Act in relation to a householder application but does not include—

- (a) an appeal against the grant of any planning permission which is granted subject to conditions; or
- (b) an appeal which is accompanied by an appeal under section 174 of the Act or under section 20 of the Listed Buildings Act;

“householder application” (“*cais deiliad ty*”) means an application for—

- (a) planning permission for the enlargement, improvement or other alteration of a dwellinghouse, or development within the curtilage of such a dwellinghouse, or
- (b) change of use to enlarge the curtilage of a dwelling house,

for any purpose incidental to the enjoyment of the dwellinghouse but does not include—

- (i) any other application for change of use,
- (ii) an application for erection of a dwellinghouse, or
- (iii) an application to change the number of dwellings in a building;

“the Listed Buildings Act” (“*y Ddeddf Adeiladau Rhestredig*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“local planning authority” (“*awdurdod cynllunio lleol*”) means, in relation to—

- (a) an application under section 77 of the Act or section 12 or 19 of the Listed Buildings Act, the body which would have dealt with the application had it not been referred to the Welsh Ministers;
- (b) an appeal under section 78 of the Act or section 20 of the Listed Buildings Act, the body which was responsible for determining the application occasioning the appeal; and
- (c) an appeal under section 208 of the Act, the body which served the notice under section 207(1) of that Act;

“minor commercial appeal” (“*apêl fasnachol fach*”) means an appeal under section 78(1)(a) of the Act in relation to a minor commercial application but does not include—

- (a) an appeal against the grant of any planning permission which is granted subject to conditions; or
- (b) an appeal which is accompanied by an appeal under section 174 of the Act or under section 20 of the Listed Buildings Act;

(7) 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).

“minor commercial application” (“*cais masnachol bach*”) means an application for planning permission for the enlargement, improvement or other alteration of an existing building of no more than 250 square metres gross external floor space at ground floor level, or part of that building, currently in use for any of the purposes set out in the Schedule to these Regulations which is an application for—

- (a) the change of use from any of the purposes set out at paragraph 1 in the Schedule to these Regulations to any of the purposes set out in either paragraph 2 or paragraph 3 of that Schedule;
- (b) the change of use from any of the purposes set out at paragraph 2 in the Schedule to these Regulations to any of the purposes set out in paragraph 3 of the Schedule; or
- (c) the carrying out of building or other operations to a shop front;

“questionnaire” (“*holiadur*”) means a document in the form supplied by the Welsh Ministers to a local planning authority for the purpose of proceedings under these Regulations, and for this purpose a form is taken to be supplied where the Welsh Ministers have published it on a website and have notified the local planning authority of—

- (a) publication of the form on the website;
- (b) the address of the website; and
- (c) the place on the website where the form may be accessed and how it may be accessed;

“relevant notice” (“*hysbysiad perthnasol*”) means, in relation to an—

- (a) application referred to the Welsh Ministers under section 77 of the Act or section 12 or 19 of the Listed Buildings Act, the application which has been referred to the Welsh Ministers; and
- (b) appeal brought under section 78 or 208 of the Act or section 20 of the Listed Buildings Act a notice of appeal under section 78 or 208 of the Act or section 21 of the Listed Buildings Act⁽⁸⁾;

“starting date” (“*dyddiad dechrau*”) means the date of the written notification of receipt of appeal under regulation 4 or 12 as the case may be;

“working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday; and

“written representations” (“*sylwadau ysgrifenedig*”) includes supporting documents.

(2) In these Regulations references to—

- (a) section 78 of the Act include references to that section as applied to applications for tree preservation orders made under that Act;
- (b) section 12, 19 or 20 of the Listed Buildings Act include references to those sections as applied by section 74(3) of that Act⁽⁹⁾.

(3) In relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

- (a) the expression “address” (“*cyfeiriad*”) includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to any other person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address;
- (b) references to notices, representations or other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

⁽⁸⁾ Section 21(8) to (11) were added by section 197 of, and paragraph 5 of Schedule 11 to, the Planning Act 2008 (c. 29).

⁽⁹⁾ Section 74(3) was amended by S.I. 2014/2773 (W. 280). Other amendments are not relevant to these Regulations.

(4) Paragraphs (5) to (8) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any statement, notice or other document to any other person (“the recipient”).

(5) The requirement is taken to be fulfilled where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient;
- (b) legible in all material respects; and
- (c) sufficiently permanent to be used for subsequent reference.

(6) In paragraph (5), “legible in all material respects” (“*darllenadwy ym mhob modd perthnasol*”) means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(7) Where the electronic communication is received by the recipient outside the recipient’s business hours, it is taken to have been received on the next working day.

(8) A requirement in these Regulations that any document must be in writing is fulfilled where that document meets the criteria in paragraph (5), and “written” (“*ysgrifenedig*”) and cognate expressions are to be construed accordingly.