



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2016 Rhif 60 (Cy. 30)

2016 No. 60 (W. 30)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**TOWN AND COUNTRY
PLANNING, WALES**

Rheoliadau Cynllunio Gwlad a
Thref (Gweithdrefn Apelau Dilysu)
(Cymru) 2016

The Town and Country Planning
(Validation Appeals Procedure)
(Wales) Regulations 2016

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn nodi'r weithdrefn ar gyfer penderfynu ar apelau dilysu a wneir i Weinidogion Cymru o dan adran 62ZB o Ddeddf Cynllunio Gwlad a Thref 1990. Yn unol ag adran 62ZB(6) mae apelau dilysu yn cael eu hystyried ar sail sylwadau ysgrifenedig. Mae'r weithdrefn yn cynnwys y camau a ganlyn—

- (a) rhaid i Weinidogion Cymru roi hysbysiad eu bod wedi cael yr apêl (rheoliad 3);
- (b) ni roddir cyfle i'r apelydd nac i'r awdurdod cynllunio lleol gyflwyno sylwadaethau ar sylwadau'r naill a'r llall (rheoliad 4); ac
- (c) rhaid i Weinidogion Cymru hysbysu'r apelydd a'r awdurdod cynllunio lleol am eu penderfyniad a'u rhesymau dros ddod i'r penderfyniad hwnnw (rheoliad 6).

Mae'r Asesiad Effaith Rheoleiddiol sy'n gymwys i'r Rheoliadau hyn ar gael gan Lywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac ar wefan Llywodraeth Cymru yn www.llyw.cymru

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure for the determination of validation appeals made to the Welsh Ministers under section 62ZB of the Town and Country Planning Act 1990. In accordance with section 62ZB(6) validation appeals are considered on the basis of written representations. The procedure includes the following steps—

- (a) the Welsh Ministers must give notice that they have received the appeal (regulation 3);
- (b) the appellant and local planning authority are not given an opportunity to comment on each others representations (regulation 4); and
- (c) the Welsh Ministers must notify the appellant and the local planning authority of their decision and their reasons for reaching that decision (regulation 6).

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff, CF10 3NQ and on the Welsh Government website at www.gov.wales.

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Thref (Gweithdrefn Apelau Dilysu)
(Cymru) 2016**

Gwnaed 27 Ionawr 2016
*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 1 Chwefror 2016
Yn dod i rym 16 Mawrth 2016

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd iddynt gan adran 323A o Ddeddf Cynllunio Gwlad a Thref 1990(1), yn gwneud y Rheoliadau a ganlyn:

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynllunio Gwlad a Thref (Gweithdrefn Apelau Dilysu) (Cymru) 2016.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru a deuant i rym ar 16 Mawrth 2016.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr “apêl” (“*appeal*”) yw apêl a wneir o dan adran 62ZB o'r Ddeddf (hawl i apelio i Weinidogion Cymru yn erbyn hysbysiad)(2);

ystyr “apelydd” (“*appellant*”) yw'r person sy'n rhoi hysbysiad apêl i Weinidogion Cymru;

ystyr “awdurdod cynllunio lleol” (“*local planning authority*”) yw'r corff a roddodd yr hysbysiad o dan adran 62ZA(3) o'r Ddeddf a oedd yn datgan bod y cais yn annilys;

(1) 1990 p. 8; mewnosodwyd adran 323A gan adran 50 o Ddeddf Cynllunio (Cymru) 2015 (decc 4) (“Deddf 2015”).

(2) Mewnosodwyd adran 62ZB gan adran 29 o Ddeddf 2015.

(3) Mewnosodwyd adran 62ZA gan adran 29 o Ddeddf 2015.

2016 No. 60 (W. 30)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(Validation Appeals Procedure)
(Wales) Regulations 2016**

Made 27 January 2016
*Laid before the National Assembly
for Wales* 1 February 2016
Coming into force 16 March 2016

The Welsh Ministers, in exercise of the powers conferred on them by section 323A of the Town and Country Planning Act 1990(1), make the following Regulations:

Title, application and commencement

1.—(1) The title of these Regulations is the Town and Country Planning (Validation Appeals Procedure) (Wales) Regulations 2016.

(2) These Regulations apply in relation to Wales and come into force on 16 March 2016.

Interpretation

2.—(1) In these Regulations—

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

“appeal” (“*apêl*”) means an appeal made under section 62ZB of the Act (right to appeal to Welsh Ministers against notice)(2);

“appellant” (“*apelydd*”) means the person giving notice of appeal to the Welsh Ministers;

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

(1) 1990 c. 8; section 323A was inserted by section 50 of the Planning (Wales) Act 2015 (anaw 4) (“the 2015 Act”).

(2) Section 62ZB was inserted by section 29 of the 2015 Act.

mae i “cyfathrebiad electronig” yr ystyr a roddir i “electronic communication” yn adran 15(1) o Ddeddf Cyfathrebiadau Electronig 2000(1);

ystyr “diwrnod gwaith” (“*working day*”) yw diwrnod nad yw’n ddydd Sadwrn, yn ddydd Sul, yn Wyl y Banc nac yn wyl gyhoeddus arall yng Nghymru;

mae “dogfen” (“*document*”) yn cynnwys ffotograff, map neu blan;

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Cynllunio Gwlad a Thref 1990; ac

ystyr “hysbysiad apêl” (“*notice of appeal*”) yw hysbysiad apêl o dan adran 62ZB o’r Ddeddf.

(2) Mewn perthynas â defnyddio cyfathrebiadau electronig at unrhyw ddiben yn y Rheoliadau hyn y mae modd ei gyflawni yn electronig—

- (a) mae’r ymadrodd “cyfeiriad” (“*address*”) yn cynnwys unrhyw rif neu gyfeiriad a ddefnyddir at ddibenion cyfathrebiadau o’r fath;
- (b) mae cyfeiriadau at hysbysiau, sylwadau neu ddogfennau eraill yn cynnwys cyfeiriadau at ddogfennau o’r fath ar ffurf electronig.

(3) Mae paragraffau (4) i (7) yn gymwys pan fo person yn defnyddio cyfathrebiad electronig at y diben o gyflawni unrhyw ofyniad yn y Rheoliadau hyn i roi i unrhyw berson arall (“y derbynydd”), neu anfon ato, unrhyw hysbysiad neu ddogfen arall.

(4) Ystyrir bod y gofyniad wedi ei gyflawni pan fo’r hysbysiad neu’r ddogfen arall a drosglwyddir drwy gyfrwng y cyfathrebiad electronig—

- (a) yn un y gall y derbynydd gael mynediad iddo neu iddi;
- (b) yn ddarllenadwy ym mhob modd perthnasol; ac
- (c) yn ddigon parhaol i’w ddefnyddio neu i’w defnyddio i gyfeirio ato neu ati yn ddiweddarach.

(5) Ym mharagraff (4), ystyr “darllenadwy ym mhob modd perthnasol” (“*legible in all material respects*”) yw bod yr wybodaeth a gynhwysir yn yr hysbysiad neu’r ddogfen arall ar gael i’r derbynydd i’r un graddau o leiaf â phe bai’r wybodaeth wedi ei hanfon neu ei rhoi drwy gyfrwng dogfen ar ffurf brintiedig.

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

“local planning authority” (“*awdurdod cynllunio lleol*”) means the body which gave the notice under section 62ZA(2) of the Act stating that the application is invalid;

“notice of appeal” (“*hysbysiad apêl*”) means a notice of appeal under section 62ZB of the Act; and

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

(2) 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;
- (b) references to notices, representations or other documents include references to such documents in electronic form.

(3) Paragraphs (4) to (7) 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 notice or other document to any other person (“the recipient”).

(4) 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.

(5) In paragraph (4), “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.

(1) 2000 p. 7; diwygiwyd adran 15(1) gan adran 406(1) o Ddeddf Cyfathrebiadau 2003 (p. 21), a paragraff 158 o Atodlen 17 iddi.

(1) 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).

(2) Section 62ZA was inserted by section 29 of the 2015 Act.

(6) Pan fo'r derbynnydd yn cael y cyfathrebiad electronig y tu allan i oriau busnes y derbynnydd, ystyrir ei fod wedi ei gael ar y diwrnod gwaith nesaf.

(7) Mae gofyniad yn y Rheoliadau hyn bod rhaid i unrhyw ddogfen fod yn ysgrifenedig wedi ei fodloni pan fo'r ddogfen honno'n bodloni'r meini prawf ym mharagraff (4), ac mae "ysgrifenedig" ("written") ac ymadroddion cytras i'w dehongli yn unol â hynny.

Hysbysu ynghylch cael apêl

3. Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n ymarferol wedi iddynt gael hysbysiad apêl, roi gwybod i'r apelydd a'r awdurdod cynllunio lleol yn ysgrifenedig—

- (a) am y rhif cyfeirnod a ddyrannwyd i'r apêl; a
- (b) y bydd yr apêl yn dilyn y gweithdrefnau a nodir yn y Rheoliadau hyn.

Sylwadau

4.—(1) Sylwadau'r apelydd mewn perthynas â'r apêl yw'r hysbysiad apêl a'r dogfennau a gyflwynir ynghyd â'r hysbysiad apêl.

(2) Sylwadau'r awdurdod cynllunio lleol mewn perthynas â'r apêl yw'r hysbysiad a roddir gan yr awdurdod cynllunio lleol o dan adran 62ZA o'r Ddeddf yn datgan bod y cais yn annilys.

Gwybodaeth bellach

5.—(1) Caiff Gweinidogion Cymru, yn ysgrifenedig, ei gwneud yn ofynnol i'r apelydd, yr awdurdod cynllunio lleol a phersonau eraill ddarparu pa bynnag wybodaeth bellach neu ddogfennau pellach a bennir sy'n berthnasol i'r apêl.

(2) Rhaid darparu'r wybodaeth honno neu'r dogfennau hynny ar ba ffurf bynnag ac o fewn pa gyfnod bynnag a bennir gan Weinidogion Cymru.

(3) Caiff Gweinidogion Cymru ddiystyru unrhyw wybodaeth bellach neu unrhyw ddogfennau pellach oni ddarparwyd yr wybodaeth neu'r dogfennau yn unol â pharagraff (1).

Hysbysu ynghylch y penderfyniad

6. Rhaid i Weinidogion Cymru hysbysu'r canlynol, yn ysgrifenedig, am eu penderfyniad ar apêl, a'u rhesymau dros ddod i'r penderfyniad hwnnw—

- (a) yr apelydd; a
- (b) yr awdurdod cynllunio lleol.

Trosglwyddo dogfennau

7. Caniateir anfon neu gyflenwi hysbysiadau neu ddogfennau y mae'n ofynnol neu yr awdurdodir eu hanfon neu eu cyflenwi o dan y Rheoliadau hyn—

(6) 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.

(7) A requirement in these Regulations that any document must be in writing is fulfilled where that document meets the criteria in paragraph (4), and "written" ("ysgrifenedig") and cognate expressions are to be construed accordingly.

Notification of receipt of appeal

3. The Welsh Ministers must, as soon as practicable after receiving a notice of appeal, advise the appellant and the local planning authority in writing—

- (a) of the reference number allocated to the appeal; and
- (b) that the appeal will follow the procedures set out in these Regulations.

Representations

4.—(1) The notice of appeal and the documents accompanying it comprise the appellant's representations in relation to the appeal.

(2) The notice given by the local planning authority under section 62ZA of the Act stating that the application is invalid comprises the local planning authority's representations in relation to the appeal.

Further information

5.—(1) The Welsh Ministers may in writing require the appellant, the local planning authority and other persons to provide such further information or documents relevant to the appeal as may be specified.

(2) Such information or documents must be provided in such form and within such period as the Welsh Ministers may specify.

(3) The Welsh Ministers may disregard any further information or documents unless the information or documents have been provided pursuant to paragraph (1).

Notification of decision

6. The Welsh Ministers must notify the decision on an appeal, and their reasons for reaching that decision, in writing to—

- (a) the appellant; and
- (b) the local planning authority.

Transmission of documents

7. Notices or documents required or authorised to be sent or supplied under these Regulations may be sent or supplied by—

- (a) drwy'r post; neu
- (b) drwy ddefnyddio cyfathrebiadau electronig i drosglwyddo'r hysbysiad neu'r ddogfen (yn ôl y digwydd) at berson ym mha bynnag gyfeiriad a bennir gan y person hwnnw at y diben hwnnw am y tro.

Tynnu'n ôl y cydsyniad i ddefnyddio cyfathrebiadau electronig

8. Pan na fo person bellach yn fodlon derbyn y defnydd o gyfathrebiadau electronig at unrhyw ddiben o'r Rheoliadau hyn y gellir ei gyflawni yn electronig, rhaid i'r person roi hysbysiad ysgrifenedig sydd—

- (a) yn tynnu'n ôl unrhyw gyfeiriad yr hysbyswyd Gweinidogion Cymru neu awdurdod cynllunio lleol amdano at y diben hwnnw, neu
- (b) yn dirymu unrhyw gytundeb a wnaed gyda Gweinidogion Cymru neu gydag awdurdod cynllunio lleol at y diben hwnnw,

a bydd y tynnu'n ôl neu'r dirymu hwnnw yn derfynol ac yn cael effaith ar ddyddiad a bennir gan y person yn yr hysbysiad ond heb fod yn llai nag 1 wythnos ar ôl dyddiad y rhoddir yr hysbysiad.

- (a) post; or
- (b) using electronic communications to transmit the notice or document (as the case may be) to a person at such address as may for the time being be specified by that person for such purpose.

Withdrawal of consent to use electronic communications

8. Where a person is no longer willing to accept the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically, the person must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to a local planning authority for that purpose, or
- (b) revoking any agreement entered into with the Welsh Ministers or with a local planning authority for that purpose,

and such withdrawal or revocation is final and takes effect on a date specified by the person in the notice but not less than 1 week after the date on which the notice is given.

Carl Sargeant

Y Gweinidog Cyfoeth Naturiol, un o Weinidogion Cymru
27 Ionawr 2016

Minister for Natural Resources, one of the Welsh Ministers
27 January 2016

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