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WELSH STATUTORY INSTRUMENTS

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**2017 No. 544**

**The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017**

**PART 5**

**Hearings**

**Application of Part 5**

**26.**—(1) This Part applies where—

- (a) notice of appeal has been received; and
- (b) the Welsh Ministers determine that the appeal is to be considered in whole or in part on the basis of a hearing.

(2) This Part also applies where—

- (a) the Welsh Ministers have made a determination that all or part of the appeal is to be considered on the basis of written representations or inquiry; and
- (b) they subsequently vary that determination such that the appeal or parts of the appeal is or are to be considered on the basis of a hearing;

to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to the appeal.

**Notification of name of appointed person**

**27.**—(1) The Welsh Ministers must notify the name of the appointed person to every person invited to take part in the hearing.

(2) Where the Welsh Ministers appoint another person instead of the person previously appointed and it is not practicable to notify the appointment before the hearing is held, the appointed person holding the hearing must, at its commencement, announce their name and the fact of their appointment.

**Appointment of assessor**

**28.** Where the Welsh Ministers appoint an assessor under paragraph 6 of Schedule 6 to the Planning Act, paragraph 6 of Schedule 3 to the Listed Buildings Act or paragraph 6 of the Schedule to the Hazardous Substances Act, they must notify the appellant, the local planning authority and any person invited to take part in the hearing of the name of the assessor and of the matters on which the assessor is to advise the appointed person.

**Date, place and notification of hearing**

**29.**—(1) The Welsh Ministers must fix the date for the hearing which must be no later than 4 weeks after the end of the representation period.

(2) Where the Welsh Ministers consider it impracticable for the hearing to be held on a date fixed in accordance with paragraph (1), the date for the hearing must be the earliest date which the Welsh Ministers consider is practicable.

(3) Where the Welsh Ministers are satisfied, having regard to the nature of the appeal, that it is reasonable to do so, the Welsh Ministers may direct that different parts of a hearing are held at different locations.

(4) The Welsh Ministers must give at least 4 weeks' written notice of the date, time and place fixed for the hearing to—

- (a) the appellant;
- (b) the local planning authority; and
- (c) any person invited to take part in the hearing.

(5) The written notice under paragraph (4) must identify the matters to be determined at the hearing and name the appointed person.

(6) The Welsh Ministers may vary the date fixed for the hearing, whether or not the date as varied is within the period of 4 weeks mentioned in paragraph (1), and paragraph (4) applies to a variation of a date as it applies to the date originally fixed.

(7) The Welsh Ministers may vary the time or place for the hearing and must give such notice of any variation as appears to them to be reasonable.

(8) Where an appeal is withdrawn after notice of the hearing has been given, the Welsh Ministers must give such notice of the cancellation of the hearing as appears to them to be reasonable.

### **Public notice of hearing**

**30.**—(1) The Welsh Ministers may require the local planning authority to take one or more of the following steps—

- (a) not less than 2 weeks before the date fixed for the hearing, post and maintain a notice of the hearing—
  - (i) in a conspicuous place, or as close as is reasonably practicable to the land to which the appeal relates;
  - (ii) in one or more places where public notices are usually posted in the area in which the land to which the appeal relates is situated;
- (b) not less than 2 weeks before the date fixed for the hearing, publish a notice of the hearing by local advertisement in the area in which the land to which the appeal relates is situated;
- (c) send a notice of the hearing to such persons or classes of persons as they may specify, within such period as they may specify.

(2) Where a direction has been given under regulation 29(3), paragraph (1) has effect with the substitution—

- (a) for references to the hearing, with references to the part of the hearing which is to be held at a place specified in the direction; and
- (b) for references to the appeal, with references to that part of the appeal which is to be the subject of that part of the hearing.

(3) Any notice posted under paragraph (1)(a) must be readily visible to, and legible by, members of the public.

(4) Where, without any fault or intention of the local planning authority, the notice is removed, obscured or defaced before the commencement of the hearing, the local planning authority is not for that reason to be treated as having failed to comply with the requirements of paragraph (3) if

the local planning authority has taken reasonable steps for the protection of the notice and, if need be, its replacement.

- (5) A notice of a hearing posted, published or sent under paragraph (1) must contain—
- (a) a statement of the date, time and place of the hearing and of the powers enabling the Welsh Ministers to determine the appeal;
  - (b) a written description of the land sufficient to identify approximately its location;
  - (c) a brief description of the subject matter of the appeal; and
  - (d) details of the place where and when copies of the application which is the subject of the appeal, the local planning authority's completed questionnaire and all other documents sent by and copied to the authority under these Regulations can be inspected.

### **Participation in a hearing**

**31.**—(1) The persons who may take part in a hearing are—

- (a) the appellant;
- (b) the local planning authority;
- (c) any person invited to take part by the Welsh Ministers.

(2) Nothing in paragraph (1) precludes the Welsh Ministers from permitting any other person to take part in a hearing.

(3) Any person who takes part may do so on their own behalf or be represented by any other person.

### **Absence, adjournment etc.**

**32.**—(1) The Welsh Ministers may proceed with a hearing in the absence of the appellant, the local planning authority and any person invited to take part.

(2) The Welsh Ministers may from time to time adjourn a hearing and, if the date, time and place of the adjourned hearing are announced at the hearing before the adjournment, no further notice is required.

### **Procedure at hearing**

**33.**—(1) The appointed person presides at any hearing and must determine the procedure at the hearing, subject to these Regulations.

(2) A hearing is to take the form of a discussion led by the appointed person and cross-examination is not to be permitted.

(3) Where the appointed person considers that cross-examination is required the appointed person must consider (after consulting the appellant) whether the hearing should be closed and an inquiry held instead.

(4) At the start of the hearing the appointed person must identify the matters on which the appointed person requires representations at the hearing.

(5) The appellant, the local planning authority and any person invited to take part in a hearing may call evidence.

(6) The appointed person may permit any other person to call evidence.

(7) The appointed person may refuse to permit the giving or production of evidence or presentation of any other matter which the appointed person considers to be irrelevant or repetitious.

(8) Where the appointed person refuses to permit the giving of oral evidence, the person wishing to give the evidence may submit to the appointed person representations in writing before the close of the hearing.

(9) The appointed person may—

- (a) require any person taking part in, or present at, a hearing who, in the appointed person's opinion, is behaving in a disruptive manner to leave; and
- (b) refuse to permit that person to return; or
- (c) permit that person to return only on such conditions as the appointed person may specify.

(10) Any person required to leave a hearing may submit to the appointed person representations in writing before the close of the hearing.

(11) The appointed person may take into account any written representation or any other document received by the appointed person from any person before a hearing opens or during the hearing provided the appointed person discloses it at the hearing.

(12) The appointed person may invite any person taking part in the hearing to make closing submissions and any person doing so must before the close of the hearing provide the appointed person with a copy of their closing submissions in writing.

(13) The appointed person may permit any person to make oral representations at the hearing.

(14) Any person entitled or permitted to make oral representations at a hearing may do so on their own behalf or be represented by another person.

### **Hearing inappropriate**

**34.**—(1) At any time before an appeal is determined, the Welsh Ministers may determine that the procedures set out in this Part are no longer suitable for that appeal.

(2) Where such a determination is made the Welsh Ministers must notify the appellant and the local planning authority in writing that—

- (a) the appeal is to be transferred from the procedures in this Part of these Regulations; and
- (b) the appeal will proceed in accordance with Part 6 of these Regulations or by means of combined proceedings to such extent as the Welsh Ministers may specify having regard to any steps already taken in relation to those proceedings.