
WELSH STATUTORY INSTRUMENTS

2017 No. 544

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

PART 1

General

Interpretation

3.—(1) In these Regulations—

“the Hazardous Substances Act” (“*y Ddeddf Sylweddau Peryglus*”) means the Planning (Hazardous Substances) Act 1990;

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

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

“the 2015 Act” (“*Deddf 2015*”) means the Planning (Wales) Act 2015(1);

“the 2012 Order” (“*Gorchymyn 2012*”) means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(2);

“the 2012 Regulations” (“*Rheoliadau 2012*”) means the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012(3);

“the 2015 Regulations” (“*Rheoliadau 2015*”) means the Planning (Hazardous Substances) (Wales) Regulations 2015(4);

“appointed person” (“*person penodedig*”) means a person appointed by the Welsh Ministers to determine an appeal or to report to the Welsh Ministers(5);

“advertisement application” (“*cais i arddangos 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(6);

“advertisement consent appeal” (“*apêl ynghylch caniatâd >i arddangos >hysbyseb*”) means an appeal under section 78(1) of the Planning Act (as applied by regulations made under section 220 of the Planning 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—

(a) the determination of a referred application; and

(1) [2015 anaw 4](#).

(2) [S.I. 2012/801 \(W. 110\)](#).

(3) [S.I. 2012/793 \(W. 108\)](#).

(4) [S.I. 2015/1597 \(W. 196\)](#).

(5) See the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) (Wales) Regulations 2015 ([S.I. 2015/1822 \(W. 264\)](#)).

(6) [S.I. 1992/666](#).

(b) an appeal made under sections 78, 174, 195, 208 or 217 of the Planning Act, sections 20 or 39 of the Listed Buildings Act or section 21 of the Hazardous Substances Act;

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

- (a) an application referred to the Welsh Ministers under section 77 of the Planning Act, section 12 or 19 of the Listed Buildings Act or section 20 of the Hazardous Substances Act, the person who made that application to the local planning authority;
- (b) an appeal under section 78 of the Planning Act, section 20 of the Listed Buildings Act or section 21 of the Hazardous Substances Act, the person whose application was refused, granted subject to conditions (other than advertisement consent appeals, householder appeals and minor commercial appeals) or not determined, by the local planning authority;
- (c) an appeal under section 174 of the Planning Act, the person who has given notice of appeal to the Welsh Ministers under that section;
- (d) an appeal under section 195 of the Planning Act, the person whose application under section 191 of that Act was refused;
- (e) an appeal under section 208 of the Planning Act, the person who has given notice of appeal to the Welsh Ministers under that section;
- (f) an appeal under section 217 of the Planning Act, the person who has given notice of appeal to the Welsh Ministers under that section;
- (g) an appeal under section 39 of the Listed Buildings Act, the person who has given notice of appeal to the Welsh Ministers under that section;

“combined proceedings” (“*achosion cyfunol*”) means proceedings which combine two or more of the following—

- (a) written representations;
- (b) a hearing;
- (c) an inquiry.

“discontinuance notice” (“*hysbysiad peidio â pharhau*”) means a notice under regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 1992;

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

“dwellinghouse” (“*ty anedd*”) 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);

“enforcement appeal” (“*apêl gorfodi*”) means an appeal against an enforcement notice;

“enforcement notice” (“*hysbysiad gorfodi*”) means a notice under—

- (a) section 172(1) of the Planning Act;
- (b) section 182(1) of the Planning Act;
- (c) section 38(1) of the Listed Buildings Act or under that section as applied by section 74(3) of that Act;
- (d) section 46(1) of the Listed Buildings Act;
- (e) section 24(1) of the Hazardous Substances Act;
- (f) section 207(1) of the Planning 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).

- (g) section 215(1) of the Planning Act;
“full statement of case” (“*datganiad achos llawn*”)—
- (a) in relation to appeals other than enforcement appeals, has the meaning given in—
- (i) article 2 of the 2012 Order;
 - (ii) regulation 2 of the 2012 Regulations;
 - (iii) regulation 2 of the 2015 Regulations;
 - (iv) section 78 of the Planning Act as modified by regulation 15 of, and Part III of Schedule 4 to, the Town and Country Planning (Control of Advertisements) Regulations 1992;
 - (v) section 78 of the Planning Act as modified by regulation 15 of, and Part V of Schedule 4 to, the Town and Country Planning (Control of Advertisements) Regulations 1992;
 - (vi) section 78 of the Planning Act as modified by article 7 of, and Part I of Schedule 2 to, the Schedule (Form of Tree Preservation Order) to the Town and Country Planning (Trees) Regulations 1999⁽⁸⁾;
- (b) in relation to enforcement appeals—
- (i) in the case of an appeal against a notice under section 24(1) of the Hazardous Substances Act, has the meaning given in section 174 of the Planning Act as modified by regulation 16 of, and Part 1 of Schedule 4 to, the 2015 Regulations;
 - (ii) in all other cases, means the full statement of case submitted by the appellant under regulations 8, 9 or 10 of the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017⁽⁹⁾;
- (c) means and is comprised of, in relation to appeals other than enforcement appeals—
- (i) a written statement by the local planning authority containing full particulars of the case the local planning authority proposes to put forward in relation to the appeal; and
 - (ii) copies of any documents the local planning authority proposes to refer to or put in evidence;
- (d) means and is comprised of, in relation to enforcement appeals—
- (i) a written statement by the local planning authority containing—
 - (aa) a response to each ground of appeal pleaded by the appellant;
 - (bb) an indication of whether the local planning authority would be prepared to grant—
 - (bba) planning permission for the matters alleged in the enforcement notice to constitute a breach of planning control;
 - (bbb) listed building consent or conservation area consent for the works to which the listed building enforcement notice or conservation area enforcement notice relates, as the case may be;
 - (bbc) hazardous substances consent for the presence on, over or under the land of any quantity of hazardous substances to which the hazardous substances contravention notice relates;

⁽⁸⁾ S.I. 1999/1892.

⁽⁹⁾ S.I. 2017/530 (W. 113)

- (cc) particulars of the conditions, if any, they would wish to impose on any permission or consent they would be prepared to grant;
- (dd) full particulars of the case the local planning authority proposes to put forward in relation to the appeal; and
- (ii) copies of any documents the local planning authority proposes to refer to or put in evidence;

“householder appeal” (“*apêl deiliad tŷ*”) means an appeal under section 78(1)(a) of the Planning 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 Planning Act or under section 20 of the Listed Buildings Act;

“householder application” (“*cais deiliad tŷ*”) 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 dwellinghouse,

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;

“interested persons” (“*personau â buddiant*”) means—

- (a) in relation to appeals other than enforcement appeals—
 - (i) any person notified or consulted in accordance with the Planning Act, Listed Buildings Act, Hazardous Substances Act, a development order or regulations, as the case may be, about the application; and
 - (ii) any other person who made representations to the local planning authority about that application;
- (b) in relation to enforcement appeals and discontinuance notices, occupiers of properties in the locality of the site to which the enforcement notice or discontinuance notice relates; and
- (c) in relation to enforcement appeals other than appeals against tree replacement notices, any person (other than the recipient of the enforcement notice) who, in the opinion of the local planning authority or hazardous substances authority, is affected by the matters alleged in the enforcement notice.

“by local advertisement” (“*drwy hysbyseb lleol*”) means by publication of the notice in a newspaper circulating in the locality in which the land to which the appeal relates is situated;

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

- (a) a referred application, the body which would have dealt with the application had it not been referred to the Welsh Ministers;
- (b) an appeal under section 78 or section 195 of the Planning Act, section 20 of the Listed Buildings Act or section 21 of the Hazardous Substances Act, the body which was responsible for determining the application occasioning the appeal;
- (c) an appeal under section 174, section 208 or section 217 of the Planning Act or section 39 of the Listed Buildings Act, the body which issued the notice occasioning the appeal;

“minor commercial appeal” (“*apêl fasnachol fach*”) means an appeal under section 78(1)(a) of the Planning 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 Planning Act or under section 20 of the Listed Buildings Act;

“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 Schedule 1 to these Regulations which is an application for—

- (a) the change of use from any of the purposes set out at paragraph 1 in Schedule 1 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 Schedule 1 to these Regulations to any of the purposes set out in paragraph 3 of that 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 any 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;

“referred application” (“*cais atgyfeiriedig*”) means in relation to section 77 of the Planning Act, section 12 or 19 of the Listed Buildings Act and section 20 of the Hazardous Substances Act, the 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 2012 Regulations⁽¹⁰⁾;

“relevant time limits” (“*terfynau amser perthnasol*”) means the time limits prescribed by these Regulations, or where the Welsh Ministers have exercised the power under regulation 7, any later time limit;

“representation” (“*sylw*”) includes evidence, explanation, information and comments;

the “representation period” (“*cyfnod sylwadau*”) is the period of 6 weeks beginning with the starting date;

the “starting date” (“*dyddiad dechrau*”) means the date specified in the notice given by the Welsh Ministers under regulation 15 (notification of receipt of appeal);

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

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

(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 electronic communications;

⁽¹⁰⁾ S.I. 2012/793 (W. 108).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (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.