
WELSH STATUTORY INSTRUMENTS

2018 No. 1181

The Sustainable Drainage (Appeals) (Wales) Regulations 2018

PART 2

Appeals against decisions

Appeals to the Welsh Ministers

- 3.**—(1) A developer may appeal against a decision by notice to the Welsh Ministers.
- (2) Appeals must be made in accordance with this Part.
- (3) For the purposes of paragraph (1) “decision” includes a deemed refusal of—
- (a) an application for approval, or
 - (b) a request to adopt.
- (4) “deemed refusal”—
- (a) in relation to an application for approval, has the meaning in regulation 5(a)(ii);
 - (b) in relation to a request to adopt, has the meaning in regulation 5(b)(ii).

Effect of appeal

- 4.**—(1) An appeal against a decision does not have the effect of suspending the decision.
- (2) If an appellant appeals a decision about the imposition of a condition of approval, construction work must not be commenced or continued until the appeal is determined or withdrawn.

Time limit for making an appeal

- 5.** An appeal must be made within the period of 6 months beginning with—
- (a) for an appeal against a decision about an application for approval (other than a decision about a condition)—
 - (i) the date of the decision, or
 - (ii) if the appeal is against the deemed refusal of the application arising from the failure of the approving body to determine the application within a period prescribed for the purpose of paragraph 11(5) of Schedule 3, the last day of that period;
 - (b) for an appeal against a decision about a request to adopt—
 - (i) the date of the decision, or
 - (ii) if the appeal is against the deemed refusal of the request arising from the failure of the approving body to determine the request within the period prescribed for the purpose of paragraph 23(4)(a) of Schedule 3, the last day of that period;
 - (c) for an appeal against a condition of approval (including a condition specifying a non-performance bond), the date approval is granted.

Making an appeal

- 6.—(1) Notice of an appeal must—
- (a) be in writing, on a form obtained from the Welsh Ministers,
 - (b) state the grounds of appeal,
 - (c) state the facts on which the appellant will rely in support of each of those grounds and any other particulars of the case the appellant intends to put forward in relation to the appeal, and
 - (d) include the name, address (including any email address) and telephone number of the appellant and any agent acting for the appellant.
- (2) The notice must be sent to the Welsh Ministers accompanied by—
- (a) a statement as to whether the appellant wishes to have the appeal dealt with by way of written representations, a hearing or an inquiry, and
 - (b) a copy of whichever of the following are relevant—
 - (i) the application for approval and any plan or other information that accompanied the application;
 - (ii) the request to adopt;
 - (iii) the notification of the decision;
 - (iv) any certificate issued under paragraph 12(2) of Schedule 3;
 - (v) any correspondence between the appellant and the approving body or planning authority in relation to the application, request or certificate.
- (3) An appellant who sends a notice of appeal to the Welsh Ministers must, at the same time, send a copy of the notice of appeal and accompanying documents to the approving body.
- (4) Any notice or other document required in this regulation to be sent or provided, may be sent by post or electronic communication.
- (5) In this regulation “accompanying documents” means the relevant documents in paragraph (2) (b).

Use of electronic communication

- 7.—(1) Paragraphs (2) to (6) of this regulation apply where an electronic communication is used by an appellant for the purpose of fulfilling any requirement in regulation 6 to give or send any notice or other document to any other person (“the recipient”).
- (2) 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.
- (3) In paragraph (2) “legible in all material respects” 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.
- (4) Where the electronic communication is received by the recipient outside the recipient’s business hours it will be taken to have been received on the next working day.
- (5) A requirement in regulation 6 that any notice or other document should be in writing is fulfilled where that document meets the criteria in paragraph (2) and “written” and cognate expressions are to be construed accordingly.

(6) Where an appellant sends any notice or other document to the Welsh Ministers using electronic communications they will be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically,
- (b) that the appellant's address for the purpose of such communications is the address incorporated into or otherwise logically associated with, the notice or other document, and
- (c) that the appellant's deemed agreement under this paragraph will subsist until the appellant gives notice in accordance with regulation 8, of a wish to revoke the agreement.

Withdrawal of consent to the use of electronic communication

8. Where the appellant 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 appellant must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to an approving body for that purpose, or
- (b) revoking any agreement entered into with the Welsh Ministers or with an approving body for that purpose.