

2016 No. 60 (W. 30)

**TOWN AND COUNTRY
PLANNING, WALES**

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

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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**The Town and Country Planning
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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.

“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.

(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

(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.

“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) 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

Minister for Natural Resources, one of the Welsh Ministers

27 January 2016