



Historic Environment (Wales) Act 2023

2023 asc 3

PART 3

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

CHAPTER 2

CONTROL OF WORKS AFFECTING LISTED BUILDINGS

Appeals to the Welsh Ministers

100 Right to appeal against planning authority decision or failure to make decision

- (1) This section applies where an application has been made to a planning authority for—
 - (a) listed building consent,
 - (b) the variation or removal of conditions of listed building consent, or
 - (c) approval of details of works under a condition of listed building consent.
- (2) The applicant may appeal to the Welsh Ministers if the planning authority—
 - (a) refuses the application, or
 - (b) grants the application subject to conditions or, in the case of an application for the variation or removal of conditions, grants it and imposes new conditions.
- (3) The applicant may also appeal to the Welsh Ministers if the planning authority has done none of the following within the determination period—
 - (a) given notice to the applicant of its decision on the application, or
 - (b) in the case of an application for listed building consent or for the variation or removal of conditions, given notice to the applicant that it has—
 - (i) exercised its power under section 93 to refuse to consider the application, or
 - (ii) referred the application to the Welsh Ministers under section 94.

- (4) In subsection (3) “the determination period” means—
- (a) the period specified in regulations made by the Welsh Ministers, or
 - (b) a longer period agreed in writing between the applicant and the planning authority.

101 Procedure for making appeal

- (1) An appeal under section 100 must be made by serving a notice of appeal on the Welsh Ministers.
- (2) The grounds of appeal stated in the notice may include (alone or with other grounds)—
- (a) a claim that the building to which the appeal relates is not of special architectural or historic interest and ought to be de-listed, or
 - (b) in the case of a building subject to interim protection or temporary listing, a claim that the building should not be listed.
- (3) The Welsh Ministers may by regulations make provision about—
- (a) the form of a notice of appeal (which may include provision for using a form to be published or provided by the Welsh Ministers or another person);
 - (b) information that must be included with a notice of appeal;
 - (c) the way in which, and period within which, a notice of appeal must be served (which may include provision enabling the Welsh Ministers to extend the period).
- (4) Section 91 (notice to owners of building) applies in relation to appeals under section 100 relating to applications for listed building consent or for the variation or removal of conditions, but as if references to an application and an applicant were references to an appeal and an appellant.
- (5) The period specified by regulations under subsection (3)(c) must be at least 28 days beginning with the day after—
- (a) in the case of an appeal under subsection (2) of section 100, the day the applicant receives notice of the decision;
 - (b) in the case of an appeal under subsection (3) of that section, the end of the determination period (which has the same meaning as in that subsection).

102 Restriction on varying application after service of notice of appeal

- (1) Once notice of an appeal under section 100 has been served, the application to which the appeal relates may not be varied except in circumstances specified in regulations made by the Welsh Ministers.
- (2) Where an application is varied under this section, the Welsh Ministers may direct that further consultation must be carried out in relation to the application.

103 Decision on application after service of notice of appeal

- (1) This section applies if a person who has made an application for listed building consent appeals under section 100(3) (failure to give notice of decision).

- (2) The Welsh Ministers must not determine the appeal before the end of the period which is specified in regulations made by the Welsh Ministers and begins with the day the notice of appeal is served.
- (3) The planning authority may give notice of its decision on the application to which the appeal relates at any time before the end of that period.
- (4) If the authority gives notice in accordance with subsection (3) that its decision is to refuse the application—
 - (a) the appeal must be treated as an appeal under section 100(2) against the refusal, and
 - (b) the Welsh Ministers must give the appellant the opportunity to revise the grounds of appeal.
- (5) If the authority gives notice in accordance with subsection (3) that its decision is to grant the application subject to conditions, the Welsh Ministers must give the appellant the opportunity—
 - (a) to proceed with the appeal as an appeal under section 100(2) against the grant of the application subject to conditions, and
 - (b) to revise the grounds of the appeal.

104 Determination of appeal

- (1) On an appeal under section 100 the Welsh Ministers may—
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the planning authority's decision on the application to which the appeal relates (whether or not the appeal relates to that part),and may deal with the application as if it had been made to them.
- (2) Where the appeal was made under section 100(3) (failure to give notice of decision) and the planning authority has not given notice under section 103(3), it is to be assumed for the purposes of subsection (1) that the authority decided to refuse the application.
- (3) On an appeal under section 100 the Welsh Ministers may also exercise their power under section 76 to de-list the building to which the appeal relates.
- (4) Chapter 2 of Part 5 makes provision about the procedure for the consideration of appeals (including provision for them to be determined by persons appointed by the Welsh Ministers).
- (5) The decision of the Welsh Ministers on an appeal is final.