
WELSH STATUTORY INSTRUMENTS

2017 No. 544

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

PART 7

Procedure after written representations, hearings, inquires or combined proceedings

CHAPTER 1

Appeals determined by appointed persons following written representations, hearings, inquiries or combined proceedings

Procedure after proceedings

47.—(1) The appointed person must make a report in writing (“the appointed person’s decision report”)—

- (a) in relation to an appeal dealt with by means of written representations, when the appointed person has considered the written representations; or
- (b) after the close of the hearing, inquiry or combined proceedings.

(2) The appointed person’s decision report must include the appointed person’s conclusions and decision on the appeal.

(3) Where an assessor has been appointed, the assessor must, after the close of the hearing, inquiry or combined proceedings make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to advise.

(4) Where an assessor makes a report in accordance with paragraph (3), the appointed person’s decision report must state how far the appointed person agrees or disagrees with the assessor’s report and, where the appointed person disagrees with the assessor, the reasons for that disagreement.

(5) When making the decision, the appointed person may disregard—

- (a) in relation to an appeal, or part of an appeal dealt with by means of written representations, any written representations received outside the relevant time limits;
- (b) any written representations, evidence or any other document received after the close of the hearing or inquiry.

(6) In relation to an appeal or part of an appeal dealt with by means of written representations, if after the relevant time limits, an appointed person proposes to take into consideration any new evidence or any new matter of fact (not being a matter of Welsh Ministers’ policy) which was not included in the written representations and which the appointed person considers to be material to the decision, the appointed person must not come to a decision without first—

- (a) notifying the appellant, the local planning authority and interested persons who made written representations; and
- (b) affording those notified under subparagraph (a) an opportunity of making written representations upon the new evidence or new matter of fact.

(7) If, after the close of the hearing or inquiry, an appointed person proposes to take into consideration any new evidence or any new matter of fact (not being a matter of Welsh Ministers' policy) which was not raised at the hearing or inquiry and which the appointed person considers to be material to the decision, the appointed person must not come to a decision without first—

- (a) notifying the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry; and
- (b) affording those notified under subparagraph (a) an opportunity of making written representations upon the new evidence or new matter of fact or of asking for the re-opening of the hearing or inquiry.

(8) The appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry must ensure that written representations or requests to re-open the hearing or inquiry made under paragraphs (6) and (7) are received by the Welsh Ministers within the period specified in the Welsh Ministers' notification under those paragraphs.

(9) An appointed person may, as the appointed person thinks fit, cause a hearing or inquiry to be re-opened, and must do so if asked by the appellant or the local planning authority in the circumstances mentioned in paragraph (7) and within the period specified in the Welsh Ministers notification under paragraph (7).

(10) Where a hearing or inquiry is re-opened—

- (a) the appointed person must send to the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry a written statement of the matters in respect of which further evidence is invited;
- (b) further evidence submitted following a request must not exceed 3,000 words and must be submitted in the time and manner specified by the appointed person; and
- (c) paragraphs (3) to (8) of regulation 29, regulation 30, paragraphs (3) to (8) of regulation 42 and regulation 43 apply as if the references to a hearing or an inquiry were references to a re-opened hearing or inquiry.

CHAPTER 2

Appeals determined by the Welsh Ministers following written representations, hearings, inquiries or combined proceedings

Procedure after proceedings

48.—(1) The appointed person must make a report in writing to the Welsh Ministers—

- (a) in relation to an appeal dealt with by means of written representations, when the appointed person has considered the written representations; or
- (b) after the close of the hearing, inquiry or combined proceedings.

(2) The report must include the appointed person's conclusions and recommendations (or the appointed person's reasons for not making any recommendations).

(3) Where an assessor has been appointed, the assessor must, after the close of the proceedings, make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to advise.

(4) Where an assessor makes a report in accordance with paragraph (3), the appointed person must append it to the appointed person's own report and must state in that report how far the appointed person agrees or disagrees with the assessor's report and, where the appointed person disagrees with the assessor, the reasons for that disagreement.

(5) When making their decision the Welsh Ministers may disregard—

- (a) in relation to an appeal or part of an appeal dealt with by means of written representations, any written representations received outside the relevant time limits;
 - (b) any written representations, evidence or any other document received after the close of the hearing or inquiry.
- (6) Paragraph (7) applies in relation to an appeal or part of an appeal dealt with by means of written representations, if the Welsh Ministers are disposed to disagree with a recommendation made by the appointed person because they—
- (a) differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person; or
 - (b) propose to take into consideration any new evidence or any new matter of fact (not being a matter of Welsh Ministers' policy).
- (7) The Welsh Ministers must not come to a decision which is at variance with the recommendation made by the appointed person without first—
- (a) notifying the appellant, the local planning authority and the interested persons who made written representations; and
 - (b) affording those notified under subparagraph (a) an opportunity of making written representations upon the new evidence or new matter of fact.
- (8) Paragraph (9) applies if, after the close of the hearing or inquiry, the Welsh Ministers are disposed to disagree with a recommendation made by the appointed person because they—
- (a) differ from the appointed person on any matter of fact mentioned in, or appearing to them to be material to, a conclusion reached by the appointed person; or
 - (b) propose to take into consideration any new evidence or new matter of fact (not being a matter of Welsh Ministers' policy).
- (9) The Welsh Ministers must not come to a decision which is at variance with the recommendation made by the appointed person without first—
- (a) notifying the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry of their disagreement and the reasons for it; and
 - (b) affording them an opportunity of making written representations upon the new evidence or new matter of fact to the Welsh Ministers or of asking for the re-opening of the hearing or inquiry.
- (10) The appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry must ensure that written representations or requests to re-open the hearing or inquiry made under paragraphs (7) and (9) are received by the Welsh Ministers within the period specified in the Welsh Ministers' notification under those paragraphs.
- (11) The Welsh Ministers may, as they think fit, cause a hearing or inquiry to be re-opened, and they must do so if asked by the appellant or the local planning authority in the circumstances mentioned in paragraph (9) and within the period specified in the Welsh Ministers' notification under paragraph (9).
- (12) Where a hearing or inquiry is re-opened (whether by the same or a different appointed person)—
- (a) the Welsh Ministers must send to the appellant, the local planning authority, the interested persons who made written representations and the persons who took part in the hearing or inquiry a written statement of the matters in respect of which further evidence is invited;
 - (b) further evidence submitted following a request must not exceed 3,000 words and must be submitted in the time and manner specified by the Welsh Ministers; and

- (c) paragraphs (3) to (8) of regulation 29, regulation 30, paragraphs (3) to (8) of regulation 42 and regulation 43 apply as if references to a hearing or an inquiry were references to a re-opened hearing or inquiry.

CHAPTER 3

Notice of decision

49.—(1) The Welsh Ministers, or the appointed person as the case may be, must send the decision on an appeal, and their reasons for it in writing to—

- (a) the appellant;
- (b) the local planning authority;
- (c) the persons who took part in the proceedings;
- (d) any other person who asked to be notified of the decision and whom the Welsh Ministers consider it reasonable to notify.

(2) Where a copy of the appointed person’s report is not sent with the notification of the decision, the notification must be accompanied by a statement of the appointed person’s conclusions and of any recommendations made by the appointed person, and if a person entitled to be notified of the decision has not received a copy of that report, that person must be supplied with a copy of it on written application to the Welsh Ministers.

(3) In this regulation “report” (“*adroddiad*”) does not include any documents appended to it; but any person who has received a copy of the report may apply to the Welsh Ministers in writing, within 6 weeks of the date of the Welsh Ministers decision, for an opportunity to inspect any such documents and the Welsh Ministers must afford that person that opportunity.

(4) Any person applying to the Welsh Ministers under paragraph (2) must ensure that the application is received by the Welsh Ministers within 4 weeks of the Welsh Ministers’ determination.