



Deddf Cynllunio (Cymru) 2015

2015 dccc 4

RHAN 7

GORFODI, APELAU ETC

Gorfodi

43 Torri rheolaeth gynllunio: hysbysiad rhybudd gorfodi

- (1) Mae DCGTh 1990 wedi ei diwygio fel a ganlyn.
- (2) Ar ôl adran 173 mewnosoder—

“173ZA Enforcement warning notice: Wales

- (1) This section applies where it appears to the local planning authority that—
 - (a) there has been a breach of planning control in respect of any land in Wales, and
 - (b) there is a reasonable prospect that, if an application for planning permission in respect of the development concerned were made, planning permission would be granted.
- (2) The authority may issue a notice under this section (an “enforcement warning notice”).
- (3) A copy of an enforcement warning notice is to be served—
 - (a) on the owner and the occupier of the land to which the notice relates, and
 - (b) on any other person having an interest in the land, being an interest that, in the opinion of the authority, would be materially affected by the taking of any further enforcement action.
- (4) The notice must—

Statws This is the original version (as it was originally enacted).

- (a) state the matters that appear to the authority to constitute the breach of planning control, and
 - (b) state that, unless an application for planning permission is made within a period specified in the notice, further enforcement action may be taken.
- (5) The issue of an enforcement warning notice does not affect any other power exercisable in respect of any breach of planning control.”
- (3) Yn adran 171A, yn is-adran (2) (camau sy’n gyfystyr â chymryd camau gorfodi), cyn “or” mewnosoder—
- “(aa) the issue of an enforcement warning notice (defined in section 173ZA);”.
- (4) Yn adran 188 (cofrestr hysbysiadau gorfodi ac atal etc)—
- (a) yn is-adran (1), ar ôl paragraff (a) mewnosoder—
 - “(aa) to enforcement warning notices;”;
 - (b) yn is-adran (2), ym mharagraff (a), ar ôl “enforcement notice” mewnosoder”, enforcement warning notice,”.

44 Apelio yn erbyn hysbysiad gorfodi: cais tybiedig am ganiatâd cynllunio

- (1) Mae adran 177 o DCGTh 1990 (rhoi neu addasu caniatâd cynllunio mewn apelau yn erbyn hysbysiadau gorfodi) wedi ei diwygio fel a ganlyn.
- (2) Yn is-adran (1C), yn lle’r geiriau o’r dechrau hyd at “subsection” rhodder “Subsection”.
- (3) Yn is-adran (5), yn lle’r geiriau o’r dechrau hyd at “in England and” rhodder “Where—
 - (a) an appeal against an enforcement notice is brought under section 174, and
 - (b)”.

Apelau

45 Cyfyngiadau ar hawl i apelio yn erbyn penderfyniadau cynllunio

Yn adran 78 o DCGTh 1990 (hawl i apelio yn erbyn penderfyniadau cynllunio a methiant i wneud penderfyniadau o’r fath), ar ôl is-adran (4A) mewnosoder—

- “(4AA) An appeal under this section may not be brought or continued against the refusal of an application for planning permission if—
- (a) the land to which the application relates is in Wales,
 - (b) granting the application would involve granting planning permission in respect of matters specified in an enforcement notice as constituting a breach of planning control, and
 - (c) on the determination of an appeal against that notice under section 174, planning permission for those matters was not granted under section 177.

- (4AB) An appeal under this section may not be brought or continued against the grant of an application for planning permission subject to a condition, if—
- (a) the land to which the application relates is in Wales,
 - (b) an appeal against an enforcement notice has been brought under section 174 on the ground that the condition ought to be discharged, and
 - (c) on the determination of that appeal, the condition was not discharged under section 177.”

46 Cyfyngiadau ar hawl i apelio yn erbyn hysbysiad gorfodi

Yn adran 174 o DCGTh 1990 (apelio yn erbyn hysbysiad gorfodi), ar ôl is-adran (2C) mewnosoder—

- “(2D) An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2) (a), if—
- (a) the land to which the enforcement notice relates is in Wales, and
 - (b) the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).
- (2E) An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if—
- (a) the land to which the enforcement notice relates is in Wales, and
 - (b) the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.
- (2F) For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which—
- (a) the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;
 - (b) an appeal has been dismissed under section 79(6A).”

47 Dim amrywio ar gais ar ôl cyflwyno hysbysiad am apêl yn erbyn penderfyniad cynllunio etc

- (1) Yn adran 78 o DCGTh 1990 (hawl i apelio yn erbyn penderfyniadau cynllunio a methiant i wneud penderfyniadau o’r fath), ar ôl is-adran (4B) mewnosoder—

“(4BA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order.

- (4BB) A development order which makes provision under subsection (4BA) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

- (2) Yn adran 195 o DCGTh 1990 (apelau yn erbyn gwrthodiad neu fethiant i benderfynu ar gais am dystysgrif cyfreithlondeb), ar ôl is-adran (1D) mewnosoder—

“(1DA) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed by a development order.

(1DB) A development order which makes provision under subsection (1DA) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

- (3) Yn adran 21 o [Ddeddf Cynllunio \(Adeiladau Rhestredig ac Ardaloedd Cadwraeth\) 1990 \(p. 9\)](#) (apelau yn erbyn penderfyniadau ar adeiladau rhestredig neu fethiant i wneud penderfyniadau o’r fath), ar ôl is-adran (4) mewnosoder—

“(4A) Once notice of an appeal under section 20 to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.

(4B) Regulations which make provision under subsection (4A) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

- (4) Yn adran 21 o [Ddeddf Cynllunio \(Sylweddau Peryglus\) 1990 \(p.10\)](#) (apelau yn erbyn penderfyniadau neu fethiant i benderfynu mewn perthynas â sylweddau peryglus), ar ôl is-adran (3D) mewnosoder—

“(3E) Once notice of an appeal under this section to the Welsh Ministers has been served, the application to which it relates may not be varied, except in such circumstances as may be prescribed.

(3F) Regulations which make provision under subsection (3E) must provide for an application which is varied to be subject to such further consultation as the Welsh Ministers consider appropriate.”

48 Apelio yn erbyn hysbysiad mewn cysylltiad â thir sy’n cael effaith andwyol ar amwynder

- (1) Mae adran 217 o DCGTh 1990 (y mae ei henw yn newid i “Appeal against a section 215 notice”) wedi ei diwygio fel a ganlyn.

- (2) Yn is-adran (2), ar ôl “made” mewnosoder “—

- (a) in the case of a notice relating to land in Wales, to the Welsh Ministers;
(b) in the case of a notice relating to land in England.”.

- (3) Yn is-adran (4), ar ôl “appeal” mewnosoder “the Welsh Ministers or (as the case may be)”.

- (4) Yn is-adran (5) ar ôl “appeal” mewnosoder “the Welsh Ministers or (as the case may be)”.

- (5) Yn is-adran (6), hepgorer “to a magistrates’ court”.

- (6) Ar ôl is-adran (6) mewnosoder—

- “(7) The Welsh Ministers may by regulations make provision, in respect of appeals made to them under this section—
- (a) as to steps to be taken in connection with bringing an appeal (including as to the form and content of any notice required to be given, and persons to whom copies of it are to be provided);
 - (b) about information to be provided to the Welsh Ministers in connection with an appeal;
 - (c) as to the procedure by which an appeal under this section is to be considered (including provision about circumstances in which the appellant or the local planning authority must be given the opportunity of appearing before and being heard by a person appointed by the Welsh Ministers for the purpose).”
- (7) Yn adran 218 o DCGTh 1990 (y mae ei henw yn newid i “Further appeal to the Crown Court: England”), ar ôl “been brought” mewnosoder “to a magistrates’ court”.
- (8) Yn adran 289 o DCGTh 1990 (y mae ei henw yn newid i “Appeals to High Court relating to enforcement notices and notices under sections 207 and 215”)—
- (a) ar ôl is-adran (2) mewnosoder—

“(2A) Where the Welsh Ministers give a decision in proceedings on an appeal under Part 8 against a notice under section 215, the appellant or the local planning authority or any other person having an interest in the land to which the notice relates may, according as rules of court may provide, either appeal to the High Court against the decision on a point of law or require the Welsh Ministers to sign and state a case for the opinion of the High Court.”;
 - (b) yn is-adran (4B), ar ôl “207” mewnosoder “or 215”;
 - (c) yn is-adran (5), ar ôl “the Secretary of State”, ym mhob man lle mae’r geiriau hynny’n digwydd, mewnosoder “or the Welsh Ministers”.

Apelau etc: y costau a’r weithdrefn

49 Costau ceisiadau, apelau a chyfeiriadau

Yn DCGTh 1990, ar ôl adran 322B mewnosoder—

“322C Costs: Wales

- (1) This section applies in relation to any application, appeal or reference under this Act to the Welsh Ministers (whether it is considered at an inquiry or hearing or on the basis of written representations).
- (2) The costs incurred by the Welsh Ministers in relation to the application, appeal or reference (or so much of them as the Welsh Ministers may direct) are to be paid by the applicant, appellant or person making the reference, or such local planning authority or other party to the application, appeal or reference, as the Welsh Ministers may direct.
- (3) Costs incurred by the Welsh Ministers in relation to an application, appeal or reference include the entire administrative cost incurred in connection with it so that, in particular, there shall be treated as costs incurred by the Welsh Ministers

such reasonable sum as the Welsh Ministers may determine in respect of general staff costs and overheads of the Welsh Government.

- (4) The costs to which subsection (2) applies include costs in respect of an inquiry or hearing that does not in the event take place and costs incurred in reviewing planning obligations (within the meaning of section 106).
- (5) The Welsh Ministers may by regulations prescribe a standard daily amount for cases involving an inquiry or hearing of any description or cases of any description considered on the basis of representations in writing; and where an inquiry or hearing of that description takes place or a case of that description is considered on the basis of representations in writing, the costs incurred by the Welsh Ministers are to be taken to be—
 - (a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which a prescribed person is engaged in dealing with the case;
 - (b) costs actually incurred in connection with dealing with the case on travelling or subsistence allowances or the provision of accommodation or other facilities;
 - (c) any costs attributable to the appointment of prescribed persons to assist in dealing with the case;
 - (d) any legal costs or disbursements incurred or made by or on behalf of the Welsh Ministers in connection with the case.
- (6) The Welsh Ministers may make orders as to the costs of the applicant or appellant or any other party to the application, appeal or reference, and as to the person or persons by whom the costs are to be paid.”

50 Y weithdrefn ar gyfer achosion penodol

Yn DCGTh 1990, ar ôl adran 323 mewnosoder—

“323A Procedure for certain proceedings: Wales

- (1) The Welsh Ministers may by regulations prescribe the procedure to be followed in connection with—
 - (a) an inquiry or hearing held or to be held by or on behalf of the Welsh Ministers under or by virtue of any provision of this Act;
 - (b) proceedings on an application, appeal or reference that, under or by virtue of any provision of this Act, is to be considered by or on behalf of the Welsh Ministers on the basis of representations in writing.
- (2) The regulations may include provision—
 - (a) about the procedure to be followed in connection with matters preparatory or subsequent to an inquiry or hearing or to the making of representations in writing;
 - (b) about the conduct of proceedings.
- (3) The regulations may include provision about the procedure to be followed—
 - (a) where steps have been taken with a view to the holding of an inquiry or hearing which does not take place,

- (b) where steps have been taken with a view to the determination of any matter by a person appointed by the Welsh Ministers and the proceedings are the subject of a direction that the matter must instead be determined by the Welsh Ministers, or
- (c) where steps have been taken in pursuance of such a direction and a further direction is made revoking that direction,

and may provide that such steps are to be treated as compliance, in whole or in part, with the requirements of the regulations.

(4) The regulations may—

- (a) provide for a time limit within which any party to the proceedings must submit representations in writing and any supporting documents,
- (b) prescribe the time limit (which may be different for different classes of proceedings) or enable the Welsh Ministers to give directions setting the time limit in a particular case or class of case,
- (c) enable the Welsh Ministers to proceed to a decision taking into account only such written representations and supporting documents as were submitted within the time limit, and
- (d) enable the Welsh Ministers, after giving the parties written notice of their intention to do so, to proceed to a decision even though no written representations were made within the time limit, if it appears to them that they have sufficient material before them to enable them to reach a decision on the merits of the case.

(5) The regulations may also make provision as to the circumstances in which—

- (a) a direction under section 322C(2) may be given;
- (b) an order for costs under section 322C(4) may be made.

(6) The Welsh Ministers may by regulations provide that in prescribed circumstances a matter may not be raised in proceedings on an appeal made under or by virtue of this Act to the Welsh Ministers unless it has been previously raised before a prescribed time or it is shown that it could not have been raised before that time.”

51 Costau a’r weithdrefn wrth apelio etc: diwygiadau pellach

Am ddiwygiadau pellach sy’n ymwneud â chostau a’r weithdrefn wrth apelio etc, gweler Atodlen 5.