Leaflet HC

Llywodraeth Cymru
Parc Cathays
Caerdydd
CF10 3NQ

HAWL I HERIO'R PENDERFYNIAD YN YR UCHEL LYS

Darperir y nodiadau hyn fel canllawiau ac maent yn berthnasol i heriau statudol o dan y ddeddfwriaeth a nodir yn unig.
Os oes angen rhagor o gyngor arnoch ynglŷn â gwneud her yn yr Uchel Lys, neu wneud cais am Adolygiad Barnwrol, dylech geisio cyngor cyfreithiol. Ceir rhagor o wybodaeth gan y Llys Gweinyddol yng Nghanolfan Cyfiawnder Sifil Caerdydd, 2 Stryd y Parc, Caerdydd CF10 1ET (029 20376400).

Adran 288 o Weithdrefnau Deddf Cynllunio Gwlad a Thref 1990

Ceir herio penderfyniadau a gorchmynion a gwmpesir gan yr adran hon trwy gyflwyno cais i'r Uchel Lys o dan adran 288 o Ddeddf Cynllunio Gwlad a Thref 1990. Mae caniatâd yr Uchel Lys yn ofynnol.

Caiff unrhyw unigolyn sy'n tybio ei fod wedi cael cam oherwydd y penderfyniad neu'r gorchymyn gwestiynu dilysrwydd y penderfyniad neu'r gorchymyn ar y sail nad yw o fewn pwerau'r Ddeddf Cynllunio Gwlad a Thref neu nas cydymffurfiwyd ag unrhyw ofynion perthnasol sy'n gysylltiedig â'r penderfyniad neu'r gorchymyn. Mae'n rhaid cyflwyno cais am ganiatâd o dan yr adran hon cyn diwedd y cyfnod o 6 wythnos sy'n dechrau gyda'r diwrnod ar ôl y dyddiad y gwnaethpwyd y gorchymyn, y cadarnhawyd y gorchymyn neu y daeth y gorchymyn i rym neu ddyddiad y penderfyniad (yn dibynnu ar y gorchymyn neu'r penderfyniad sydd i'w herio).

Gweithdrefnau Adran 289 o Ddeddf Cynllunio Gwlad a Thref 1990

I herio penderfyniad o dan adran 289 o Ddeddf Cynllunio Gwlad a Thref 1990, mae'n ofynnol cael caniatâd gan y Llys yn gyntaf. Mae'n rhaid cyflwyno cais am ganiatâd o fewn 28 diwrnod ar ôl y dyddiad yr hysbyswyd yr apelydd am y penderfyniad, oni bai bod y Llys yn ymestyn y cyfnod hwn.

Yr Hawl i Archwilio Dogfennau

Pan fo ymchwilid neu wrandawiad wedi'i gynnal, mae gan unrhyw unigolyn sydd â hawl i gael ei hysbysu am y penderfyniad yr hawl statudol i weld unrhyw ddogfennau a restrir yn yr atodiad i adroddiad yr Arolygydd.

Os ydych chi'n unigolyn o'r fath dylech gysylltu â'r Gyfarwyddiaeth Gynllunio yn Llywodraeth Cymru o fewn 6 wythnos i ddyddiad y penderfyniad, gan ddyfynnu'r cyfeirnod ar y llythyr penderfyniad a nodi'r diwrnod a'r amser – yn ystod oriau swyddfa arferol – pryd yr ydych yn dymuno ymweld. Dylid rhoi o leiaf 3 diwrnod o rybudd.

Atodiad i daflen HC

<u>Penderfyniadau a gorchmynion a gwmpesir gan Adran 288 o Ddeddf Cynllunio Gwlad a Thref 1990</u>

- Gorchmynion dirymu ac addasu (Adran 97 o'r Ddeddf)

- Gorchmynion Dirwyn i Ben (Adran 102 o'r Ddeddf)

- Gorchmynion Diogelu Coed (Adran 198 o'r Ddeddf)

- Gorchmynion yn diffinio Ardaloedd Rheolaeth Arbennig ar Hysbysebu (Adran 221(5) o'r Ddeddf)

- Gorchmynion dirwyn i ben, gwahardd ac atal dros dro ar gyfer gweithiau mwynau (paragraffau 1, 3, 5 a 6 o Atodlen 9 y Ddeddf)

- Unrhyw benderfyniad ynglŷn â manteision cynllunio o ran ceisiadau a alwyd i mewn (Adran 77 o'r Ddeddf)

- Unrhyw benderfyniad ynglŷn â chais a gyflwynwyd i Weinidogion Cymru o dan adran 62D (Datblygiadau o Arwyddocâd Cenedlaethol)

- Unrhyw benderfyniad ar ganiatâd eilaidd Datblygiad o Arwyddocâd Cenedlaethol y mae Gweinidogion Cymru yn ymdrin ag ef o dan adran 62F, oni bai, oherwydd deddfiad nad yw wedi ei gynnwys yn y Ddeddf Cynllunio hon -
  (i) apêl yn erbyn penderfyniad y ceir ei gyflwyno i unigolyn ar wahân i Weinidogion Cymru, neu
  (ii) y gallai dilysrwydd y penderfyniad gael ei gwestiynu fel arall trwy gais i unigolyn ar wahân i Weinidogion Cymru;
  (Datblygiadau o Arwyddocâd Cenedlaethol: caniatâd eilaidd)

- Unrhyw benderfyniad ar apêl o dan Adran 78 o'r Ddeddf

- Unrhyw benderfyniad gan Weinidogion Cymru i gadarnhau hysbysiad cwblhau (Adran 95 o'r Ddeddf)

- Unrhyw benderfyniad ar apêl gorfodi i ganiatáu caniatâd cynllunio o dan baragraff (a) o Adran 177 (1) o'r Ddeddf neu ryddhau amod neu gyfyngiad o dan baragraff (b) o'r Adran honno

- Unrhyw benderfyniad gan Weinidogion Cymru ynglŷn â hysbysiad prynu (Adran 141 o'r Ddeddf)

- Unrhyw benderfyniad ar apêl ynglŷn â thystysgrif cyfreithlondeb defnydd neu ddatblygiad sy'n bodoli neu dystysgrif cyfreithlondeb defnydd neu ddatblygiad arfaethedig (Adran 195 o'r Ddeddf)

- Unrhyw benderfyniad a wnaed gan Weinidogion Cymru ynglŷn â gorchmynion diogelu coed

- Unrhyw benderfyniad gan Weinidogion Cymru ynglŷn ag apeliadau hysbysebion, hysbysiadau dirwyn i ben ar gyfer hysbysebion, neu unrhyw gyfarwyddyd a gyflwynwyd gan Weinidogion Cymru o dan y Rheoliadau Rheolaeth Hysbysebion

- Unrhyw benderfyniad ar gais am ganiatâd cynllunio o dan adran 293A (datblygiad y goron brys)

- Gorchymyn costau perthnasol a wnaed yn gysylltiedig ag unrhyw orchymyn neu benderfyniad a restrir uchod

<u>Penderfyniadau a gwmpesir gan Adran 289 o Ddeddf 1990</u>

- Unrhyw benderfyniad gan Weinidogion Cymru ar apêl yn erbyn hysbysiad gorfodi (Rhan VII o'r Ddeddf)

- Unrhyw benderfyniad gan Weinidogion Cymru ar apêl o dan Ran VIII yn erbyn hysbysiad o dan Adran 207 yn gorfodi telerau gorchymyn diogelu coed

Leaflet HC

Welsh Government
Cathays Park
Cardiff CF10 3NQ

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance and only relate to statutory challenges under the legislation specified.
If you require further advice on making a High Court challenge, or making an application for Judicial Review, you should seek legal advice. Further information can be obtained from the Administrative Court at Cardiff Civil Justice Centre, 2 Park Street, Cardiff CF10 1ET (029 20376400).

Section 288 of the Town and Country Planning Act 1990 Procedures

Decisions and orders covered by this section may be challenged by making an application to the High Court under section 288 of the Town and Country Planning Act 1990 (TCPA). Permission of the High Court is required.

Any person aggrieved by the decision or order may question the validity of the decision or order on the grounds that it is not within the powers of the TCPA or that any of the relevant requirements have not been complied with in relation to the decision or order. An application for permission under this section must be made before the end of the period of 6 weeks beginning with the day after the date on which the order is made, confirmed or takes effect or the date of the decision (depending on the order or decision to be challenged).

Section 289 of the Town and Country Planning Act 1990 Procedures

To challenge a decision under section 289 of the TCPA, permission must first be obtained from the Court. Application for permission must be made within 28 days after the date on which notice of the decision was given to the applicant, unless the Court extends this period.

Right to Inspect Documents

Where an inquiry or hearing has been held, any person who is entitled to be notified of the decision has a statutory right to view any documents listed in the appendix to the Inspector's report.

If you are such a person you should contact the Planning Directorate at the Welsh Government within 6 weeks of the date of decision, quoting the reference number on the decision letter and stating the day and time - during normal office hours - when you wish to visit. At least 3 days notice should be given.

Appendix to leaflet HC

Decisions and orders covered by Section 288 of the TCPA

- Revocation and modification orders (Section 97 of Act)
- Discontinuance orders (Section 102 of Act)
- Tree preservation orders (Section 198 of Act)
- Orders defining Areas of Special Advertisement Control (Section 221(5) of Act)
- Discontinuance, prohibition and suspension orders in respect of mineral workings (paragraphs 1, 3, 5 and 6 of Schedule 9 to Act)
- Any decision on planning merits of called-in applications (Section 77 of Act)
- Any decision on an application made to the Welsh Ministers under section 62D (Developments of National Significance (DNS))
- Any decision on a DNS secondary consent dealt with by the Welsh Ministers under section 62F, unless, by virtue of an enactment not contained in this Planning Act -
  (i) an appeal against that decision may be made to a person other than the Welsh Ministers, or
  (ii) the validity of the decision may otherwise be questioned by way of application to a person other than the Welsh Ministers;
  (Developments of National Significance: secondary consents)
- Any decision on an appeal under Section 78 of the Act
- Any decision of the Welsh Ministers to confirm a completion notice (Section 95 of Act)
- Any decision on an enforcement appeal to grant planning permission under paragraph (a) of Section 177 (1) of Act or to discharge a condition or limitation under paragraph (b) of that Section
- Any decision of the Welsh Ministers on a purchase notice (Section 141 of Act)
- Any decision on appeal in respect of certificate of lawfulness of existing use or development or certificate of lawfulness of proposed use or development (Section 195 of Act)
- Any decision made by the Welsh Ministers in respect of tree preservation orders

- Any decision by the Welsh Ministers in respect of advertisement appeals, discontinuance notices for advertisements, or any directions issued by the Welsh Ministers under the Control of Advertisement Regulations

- Any decision on an application for planning permission under section 293A (urgent crown development)

- A relevant costs order made in connection with any order or decision listed above

Decisions covered by Section 289 of the 1990 Act

- Any decision of the Welsh Ministers on an appeal against an enforcement notice (Part VII of the Act)

- Any decision of the Welsh Ministers on an appeal under Part VIII against a notice under Section 207 enforcing the terms of a tree preservation order