

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).

Ceir herio penderfyniad Gweinidogion Cymru ynglŷn ag unrhyw benderfyniad neu orchymyn a restrir yn yr atodiad i'r daflen hon yn yr Uchel Lys yn unol â darpariaethau Adran 63 neu Adran 65 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990. ("Deddf 1990").

Gweithdrefnau Adran 63

Ceir herio penderfyniadau a gorchmynion a gwmpesir gan yr Adran hon trwy wneud cais i'r Uchel Lys. Mae caniatâd yr Uchel Lys yn ofynnol. Mae'n rhaid cyflwyno'r cais am ganiatâd cyn diwedd y cyfnod o 6 wythnos sy'n dechrau ar y diwrnod ar ôl y dyddiad y caiff y gorchmyn ei gadarnhau neu'r dyddiad y mae'n dod i rym neu'r dyddiad y gwneir y penderfyniad neu'r gorchmyn (yn dibynnu ar y gorchmyn neu'r penderfyniad sydd i'w herio).

Ceir cyflwyno her o dan yr Adran hon ar sail y canlynol yn unig:

- (a) nid oedd y cam gweithredu o fewn pwerau Deddf 1990; neu
- (b) bu methiant i gydymffurfio ag unrhyw un o'r gofynion perthnasol.

Gweithdrefnau Adran 65

Caiff y gweithdrefnau ar gyfer herio penderfyniadau eu llywodraethu gan reolau'r llys. Mae caniatâd yr Uchel Lys yn ofynnol. Mae'n rhaid i'r cais am ganiatâd i apelio gael ei wneud o fewn 28 diwrnod ar ôl y dyddiad yr hysbyswyd yr ymgeisydd am y penderfyniad. Mae gan y llys y pŵer i ymestyn yr amser. Os caiff y cais am ganiatâd ei gofrestru ar ôl y terfyn amser, mae'n rhaid nodi'r rhesymau am yr oedi yn y rhesymau dros y cais. Pan fo'r llys yn rhoi caniatâd mae'n rhaid ffeilio a chyflwyno hysbysiad yr apelydd am apêl o fewn 7 diwrnod i roi'r caniatâd.

Ceir cyflwyno her o dan yr Adran hon ar sail pwynt o'r gyfraith yn unig.

Atodiad i'r daflen HC (LBCA)

Penderfyniadau a gorchmynion a gwmpesir gan Adran 63 o Ddeddf 1990

- Gorchmynion dirymu ac addasu gorchmynion a wnaed gan awdurdodau lleol ynglŷn â chaniatâd adeiladau rhestredig neu ardaloedd cadwraeth (Adran 23 o'r Ddeddf)
- Gorchmynion dirymu ac addasu a wneir gan Weinidogion Cymru ynglŷn â chaniatâd adeiladau rhestredig neu ardaloedd cadwraeth (Adran 26 o'r Ddeddf)
- Ceisiadau am ganiatâd adeiladau rhestredig neu ardaloedd cadwraeth a atgyfeiriwyd i Weinidogion Cymru ar gyfer penderfyniad (Adran 12 o'r Ddeddf)
- Penderfyniadau ynglŷn ag apêl i geisiadau am ganiatâd adeiladau rhestredig ac ardaloedd cadwraeth (Adran 20 o'r Ddeddf)
- Unrhyw benderfyniad i gadarnhau neu i beidio â chadarnhau hysbysiad i brynu adeiladu rhestredig (Adran 35 o'r Ddeddf)
- Penderfyniadau i roi caniatâd i adeiladau rhestredig neu ardaloedd cadwraeth neu i ryddhau amodau neu gyfyngiadau neu orfodi rhai eraill yn dilyn apeliadau yn erbyn hysbysiadau adeiladau rhestredig neu ardaloedd cadwraeth (Adran 41(6) (a) a (b) o'r Ddeddf)
- Unrhyw benderfyniad ar gais am ganiatâd adeiladau rhestredig ar gyfer gwaith brys yn ymwneud â thir y Goron (Adran 82B)
- Gorchymyn costau perthnasol a wneir yn gysylltiedig ag unrhyw orchymyn neu benderfyniad a restrir uchod.

Penderfyniadau a gwmpesir gan Adran 65 o Ddeddf 1990

- Unrhyw benderfyniad gan Weinidogion Cymru ar apêl yn erbyn hysbysiad gorfodi ar gyfer adeiladau rhestredig neu ardaloedd cadwraeth (Adran 39 o'r Ddeddf)

SYLWER: Cymhwysir y darpariaethau sy'n ymwneud ag ardaloedd cadwraeth gan Adran 74(3) y Ddeddf.

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).

The decision of the Welsh Ministers in respect of any of the decisions and orders listed in the appendix to this leaflet may be challenged in the High Court in accordance with the provisions of either Section 63 or Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act").

Section 63 Procedures

Decisions and orders covered by this Section may be challenged by making an application to the High Court. Permission of the High Court is required. The application for permission must be made before the end of the period of 6 weeks beginning with the day after the date on which the order is confirmed or takes effect or the date on which the decision or order is made (depending on the order or decision to be challenged).

A challenge may be brought under this Section only on the grounds that:

- (a) the action was not within the powers of the 1990 Act; or
- (b) there has been a failure to comply with any of the relevant requirements.

Section 65 Procedures

The procedures for challenging decisions covered by this Section are governed by rules of court. Permission of the High Court is required. The application for permission to appeal must be made within 28 days after the date on which notice of the decision was given to the applicant. The court has power to extend the time. If the application for permission is lodged out of time, the reasons for delay must be given within the grounds of the application. Where the court grants permission the appellant's notice of appeal must then be filed and served within 7 days of the grant.

A challenge under this Section may be made only on a point of law.

Appendix to leaflet HC (LBCA)

Decisions and orders covered by Section 63 of the 1990 Act

- Revocation and modification orders made by local authorities in respect of listed building or conservation area consents (Section 23 of the Act)
- Revocation and modification orders made by the Welsh Ministers in respect of listed building or conservation area consents (Section 26 of the Act)
- Applications for listed building or conservation area consent referred to the Welsh Ministers for decision (Section 12 of the Act)
- Decisions on appeal in respect of applications for listed building or conservation consent (Section 20 of the Act)
- Any decision to confirm or not to confirm a listed building purchase notice (Section 35 of the Act)
- Decisions to grant listed building or conservation area consent or to discharge conditions or limitations or impose others on appeals against listed building or conservation area enforcement notices (Section 41(6) (a) and (b) of the Act)
- Any decision on an application for listed building consent for urgent works relating to Crown land (Section 82B)
- A relevant costs order made in connection with any order or decision listed above.

Decisions covered by Section 65 of the 1990 Act

- Any decision of the Welsh Ministers on an appeal against a listed building or conservation area enforcement notice (Section 39 of the Act)

NOTE: The provisions relating to conservation areas are applied by Section 74(3) of the Act.