

***Appeals under section 6 of the
Countryside and Rights of Way Act 2000***

***A Guide for Appellants
(mapping appeals)***

This guidance sets out the procedures for appeals made under section 6 of the Countryside and Rights of Way Act 2000 to the Secretary of State for Environment Food and Rural Affairs against the showing of land as access land.

This guidance relates only to appeals in England.

Only the courts can give an authoritative interpretation on any point of law, so this guidance has no legal force.

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Introduction

This guidance is about appealing against provisional maps of open country and registered common land issued by the Natural England (NE). Appeals will be decided by the Planning Inspectorate on behalf of the Secretary of State for Environment, Food and Rural Affairs (*you can find out more about the Inspectorate in section 12*). The guidance explains how appeals may be made, and the way in which we will deal with your appeal. The Department for Environment Food and Rural Affairs has also issued guidance which can be viewed on the internet at: <http://www.defra.gov.uk/wildlife-countryside/cl/guidance.pdf>

The Countryside and Rights of Way Act 2000 sets out the law relating to the mapping of open country and registered common land, and appeals against provisional maps. Elsewhere in this guidance note, we simply refer to it as **the Act**. You can find the Act on the Internet at <http://www.legislation.hmso.gov.uk/acts/acts2000/20000037.htm> You may also be able to see the Act at larger public libraries.

1. How to make an appeal

Do I have the right to appeal?

Only people with a legal interest in the land which has been shown on the provisional map as open country or registered common land can appeal against part or all of that land being shown. To have a legal interest in the land means that you:

- are the landowner or tenant;
- hold rights of common or sporting rights.
- or have any other interest in the land, such as a grazing licence or a private right of way.

The definition of **interest** in land is set out in section 45(1) of the Act. If you are in any doubt whether you have an interest in land which would allow you to appeal, you may find it helpful to consult a legal advisor, a Citizen's Advice Bureau, or an organisation representing land managers of which you may be a member.

How and when do I make the appeal?

Your appeal must be made within the **appeal period**. This lasts for 3 months from the date on which the provisional map for each area of England is published.

The appeal must be made on our standard appeal form. You may obtain the form from our web site <http://www.planning-inspectorate.gov.uk/access/>. You may obtain a form by telephoning or writing to us. Our postal address and telephone number is given in section 12 of this guidance. If you visit our web site, you may download the appeal form and return it to us electronically by e-mail to access@pins.gsi.gov.uk, or print it out and post it to us.

Where possible we would prefer appeals to be made electronically ~~but~~ do not worry if you cannot do that. Whether an appeal is sent electronically or on paper will not have any bearing on its chances of success.

Any representations or documents submitted electronically should be based upon the Microsoft Office 97 suite of applications. When submitting the appeal electronically you do not need to complete it with an electronic signature. When submitting your appeal on paper you should keep a copy for your own reference. If you submit an appeal electronically ~~please do not send a paper copy~~ in addition.

You **must** state your preferred procedure on your appeal form (*see below*).

How do I decide which procedure will be best for my appeal?

The 3 procedures to choose from are:

- **Written representations** (see section 4 of the guidance)
- **Hearing** (see section 5)
- **Inquiry** (see section 6).

It is crucial that you give careful consideration to which of the procedures is most suitable for your appeal. You should read sections 4, 5 and 6 of this guidance before making your decision. There are significant differences between the three procedures, although the deadlines by which most actions have to be completed are the same for each. These differences may have a bearing on the amount of time it will take to decide your appeal and the expense of preparing your appeal.

You and Natural England may ask to be heard (ie: appear before an Inspector at either a hearing or inquiry). The Planning Inspectorate may also decide that an appeal should be heard. Whether to hold a hearing or an inquiry is entirely at our discretion, although when reaching a decision we will take your views into account.

Who else can be involved?

We have to publish notice of every appeal on our web site, to give any member of the public the opportunity to make representations. This means that other people and organisations (described in this guidance as **third parties**) may make written representations in relation to your appeal, which the Inspector will consider when reaching a decision. Third parties may also speak at a hearing or inquiry with the Inspector's permission.

We will also notify any third parties who made representations about your appeal site when the draft map was published. These third parties will be given an opportunity to add to, or to withdraw, any representations they made at that time.

You will be given an opportunity to comment on all third party representations.

You should be aware that any submissions you make may be published on our web site and will be made available to be inspected and copied. You should, therefore, not include personal information unless you are happy for it to be seen by others. (See section 13 of this guidance)

How much will it cost?

There is no charge for making an appeal but you will have to pay your own costs. What this means is that if you employ a professional adviser (eg: a solicitor) to help you make your appeal, you will have to pay for their services. Clearly, the amount you may pay is likely to vary according to how much time your representative spends working on your appeal. This is likely to be affected by the procedure chosen for your appeal.

The only exception to parties meeting all their own costs is when a party makes a successful application for an award of costs against another party. (See section 10 of this guidance)

2. What happens when we receive an appeal

Checking the appeal form has been fully completed

When we receive your appeal we will check that it has been completed properly and contains all the information which we need to be able to deal with it. The Act allows the Secretary of State for Environment, Food and Rural Affairs to make regulations setting out the procedures which you, we and any other persons taking part in an appeal must follow. These regulations have been made as The Access to the Countryside (Provisional and Conclusive Maps) (England) Regulations 2002. You can find the Regulations on the Internet at: <http://www.legislation.hmso.gov.uk/si/si2002/20021710.htm> You may also be able to see the Regulations at larger public libraries.

For us to be able to deal with your appeal you should give us:

- your name and postal address
- a sufficient description, whether by marking it on a map or otherwise, to enable the Inspector to be able to identify the location and the extent of the land which is the

- subject of the appeal
- the nature of your interest in the land
- a statement of the grounds of your appeal
- your choice of procedure.

You must clearly identify the land which is shown as open country or registered common land on the provisional map and against which you want to appeal. The easiest way to do this is to send us a map (at a scale of at least 1:50,000) - such as a farm plan or a printout of the provisional map from Natural England's web site - with the land clearly marked on it. Or you can give us the Ordnance Survey grid references of the land, but you must give us sufficient grid references to allow us to work out all the boundaries of the land (eg: you could say "the field centred on grid reference AB215877 of 12 hectares in size". You should not say "Upper Park field behind Park Farm", because we would not know which field you meant).

Checking that your grounds of appeal are valid

We check that your appeal has been made on valid grounds. Section 6 of the Countryside and Rights of Way Act 2000 is quite specific on the grounds on which an appeal may be made. You can appeal on the grounds that either:

- the land is not registered common land (section 6(2) of the Act)

OR, under section 6(3) of the Act, on the ground that:

- (a) the land does not consist wholly or predominantly of mountain, moor, heath or down and,
- (b) to the extent that Natural England have exercised their discretion under section 4(5)(b) to treat land which is not open country as forming part of an area of open country, they ought not to have done so.

You may only appeal under **either** section 6(2) or section 6(3), not both.

You should note that appeals cannot be made on any ground other than those given in section 6(2) or 6(3). For example, it is not relevant to tell us that the land is unsuitable for access, or that access would interfere with farming activities (there are other provisions in the Act which may allow for access to be restricted or excluded in such cases). **We will not proceed with any appeal which is not made on valid grounds.**

Open country appeal sites and surrounding land

Part I of the Act puts Natural England under a duty to map open country, which is defined in section 1(2) as "land which - appears to [Natural England] to consist wholly or predominantly of mountain, moor, heath or down...". The word "predominantly" is generally accepted to mean "mostly" or "prevailing". This means that in practice the Act allows the mapping of an individual parcel of land as open country, a significant proportion of which does **not** have the characteristics of mountain, moor, heath or down, but which lies within a larger area of land which does.

Appellants may appeal only in respect of land in which they have a legal interest (see "*Do I have the right to appeal?*" above). They may, of course, appeal in respect of an entire area of mapped land if they have an interest in it. However, many appellants will appeal in respect of a portion of a larger mapped area - either because they believe only that portion should be removed from the map, or because they have a legal interest in only that portion.

Because of the definition of "open country" in the Act, the Planning Inspectorate is of the opinion that Inspectors may - in certain circumstances - need to look at land adjoining or surrounding the appeal site, to establish whether Natural England has correctly discharged its duty to map the land which is the subject of the appeal.

You should therefore be aware that Natural England may present evidence that while the appeal site may not on its own comprise wholly or predominantly of mountain, moor, heath or down (and may even contain none of those types of land), it forms part of a larger area of land that **does** comprise wholly or predominantly of mountain, moor, heath or down.

What happens if something is missing?

If you have not sent us everything we need to enable us to process your appeal or have failed

to submit valid grounds we will ask you to provide us with the missing information, or to amend the grounds of appeal. If you do not do this within the 3 month appeal period then you will not have made a valid appeal and we will not be able to take any further action on it. You should bear this in mind if you submit your appeal towards the end of the 3 month appeal period we may not be able to tell you what is wrong with your appeal in sufficient time to enable you to amend or re-send it. For this reason we strongly advise you to submit your appeal in good time.

Setting the 'start date'

If your appeal is valid and you have supplied all the information we require we will tell you so. At the same time we will inform you of the name of your case officer and the unique reference assigned to your case. We will then tell Natural England that your appeal is valid and copy your appeal form to them.

We may receive a large number of appeals, and may receive more than one appeal in respect of a piece of land if there are different "interests" over it. To help us identify which correspondence goes with which appeal, and so to process your appeal efficiently, please always quote the reference whenever contacting us regarding your appeal.

Natural England will complete a **questionnaire** in which they have to tell us their preferred procedure. They will send their completed questionnaire to you and to us, together with the names and addresses of third parties who made comments in respect of the appeal land on the draft map.

We will then tell you, Natural England (and the third parties that Natural England has informed us of) the procedure to be used (ie: written representations, hearing or inquiry) and the **start date**. The start date is the date from which the timetable for each stage of the procedure is calculated. The letter we send you will set out the timetable for submission of evidence by all parties. **It is your responsibility to keep to this timetable - we will not send you reminders.**

At this time, we will also post notice of your appeal on our web site.

3. "Alternative" status of mapped land

In the case of appeals against the showing of registered common land, the Act allows the Inspector to decide that the land should be shown instead as open country, if the evidence supports that conclusion. If Natural England has evidence that the alternative status may apply to an appeal site, they will tell us when they return their questionnaire (see "*Setting the start date*" in section 2 above). So appellants will be aware of Natural England's claim when we copy the questionnaire to them. In these cases we will give appellants extra time to consider whether the alternative status may be correct (and, if so, whether to continue with their appeal), and to prepare evidence rebutting the claim.

4. The written representations procedure

This is likely to be the cheapest and easiest procedure because you and Natural England do not have to attend a hearing or inquiry. Instead the Inspector makes his/her decision based on the written statements that you, Natural England and any third parties have submitted. You and Natural England will have the opportunity to comment on each other's case and any representations made by third parties. In most cases the Inspector will visit the site to make an inspection of it before reaching a decision.

The written representations procedure is most suitable for appeals which do not raise complex legal matters and have not attracted large numbers of third party representations.

Costs cannot be awarded against you or Natural England where your appeal is dealt with by written representations. (See section 10 of this guidance)

The timetable of events following the start date

~~The 2 week deadline~~

Within 2 weeks of the start date Natural England must have provided you and us with copies of

any third party representations they received in respect of the appeal site during the draft map consultation period. They will also copy to you and us any correspondence they exchanged with you over the draft map.

The 6 week deadline

We must receive your **statement of case**, which sets out your side of the argument, within 6 weeks of the start date **unless** you intend to rely only upon the grounds that you entered onto your appeal form. Repeating matters that you have already set out in your grounds of appeal serves no purpose. The statement does not have to be in any particular format and it can be submitted on paper or by e-mail. If you decide not to send a statement of case within 6 weeks you will still be given the opportunity to comment, within 9 weeks of the start date, on the statements submitted by Natural England and third parties (see "The 9 week deadline" below).

Third parties may also submit representations. All representations that have been received within the specified time will be copied to you and Natural England once the 6 week deadline has passed. Your statement of case and that of Natural England's will be despatched by us to the other party at the same time to prevent either party getting an unfair advantage by seeing the other's statement before submitting their own.

The 9 week deadline

Within 9 weeks of the start date you and Natural England may comment on each other's statements of case and on any comments submitted by third parties. We expect both you and Natural England to have given us all evidence in the grounds of appeal and statements of case, so the opportunity to comment at 9 weeks must not be used as a means of introducing new material or putting forward arguments that should have been included in your 6 week statement. If you do, Natural England would have no opportunity to respond so **we will reject and return representations received at this stage if they raise new issues.**

After the exchange of comments on each other's statements of case has taken place, where appropriate, we will arrange for the Inspector to carry out a site visit. We will notify you of the date on which the site inspection is to take place so that you may attend if you wish.

The Inspector's site visit

You may accompany the Inspector when he/she visits the site. When deciding whether to accompany the Inspector you should bear in mind that the Inspector will be unable to accept evidence or discuss your appeal. The Inspector may, however, ask you to point out physical features referred to in your written evidence. This rule will be strictly observed by Inspectors.

As it is likely that Natural England will not attend the site visit, it is essential that the visit does not allow you to gain an unfair advantage. Should you raise points of evidence during the visit, the Inspector will ask you not to do so and explain why. If you continue to discuss the evidence it is likely that the Inspector will stop the visit and leave the site.

If you want to discuss your appeal with the Inspector then it may be that a hearing (or even an inquiry) may be best. (See sections 1, 5 and 6 of this guidance)

If you decide that you want to accompany the Inspector we will notify Natural England of the date, time and meeting point so that they have an opportunity to attend (even if they choose not to).

5. The hearing procedure

A hearing is a discussion about the appeal led by the Inspector. It is more informal and usually quicker than an inquiry and gets the parties to focus upon the main issues of disagreement. We expect most hearings to be completed within 1½ hours.

Hearings are not usually suitable for appeals that involve cross-examination of a number of witnesses or which have generated such interest that large numbers of people wish to attend.

The timetable of events following the start date

The 2 week deadline

Within 2 weeks of the start date Natural England must have provided you and us with copies of any third party representations they received in respect of the appeal site during the draft map consultation period. They will also copy to you and us any correspondence they exchanged with you over the draft map.

The 6 week deadline

Within 6 weeks of the start date we must have received your **statement of case** and Natural England's. The statement of case does not have to be in any particular format and it can be submitted on paper or by e-mail.

You and Natural England must send your statements of case within 6 weeks of the start date **unless** you intend to rely only on the grounds that you entered onto your appeal form. Repeating matters that you have already set out in your grounds of appeal serves no purpose. If you decide not to send a statement of case within 6 weeks you will still be given the opportunity to comment on the statement submitted by Natural England and representations from third parties within 9 weeks of the start date (see "The 9 week deadline" below).

Your statement of case should be concise and should concentrate on the main issues. It should set out the key facts, reasoning and conclusions necessary to make your case in a logical form. Each party will only get the full benefits of the hearing if you, Natural England and the Inspector have an opportunity to consider the issues beforehand. The hearing can then be an open discussion of the main issues without witnesses having to be examined. If appropriate, expert opinions should also be stated and substantiated. If you intend to call somebody to speak on your behalf their statement should be included in your statement of case.

The statement of case may be used, in whole or in part, for reference at the hearing and by the Inspector in writing his/her decision or report. When preparing your statement you should bear in mind that evidence will not necessarily be accepted just because it has not been challenged by another party. Our Inspectors bring their own experience, knowledge and judgement to all evidence presented to them.

If more than one document is referred to in your statement of case and will be submitted as evidence, an index should be provided and each page of the statement numbered. Photographs should be accompanied by a plan showing the viewpoints from which they were taken. Other relevant details, such as the time and date, and the focal length of the lens used should be given if known.

Third parties may also submit representations. All representations received within time will be copied to you and Natural England once the 6 week deadline has passed. Your statement of case and that of Natural England's will be despatched by us to the other party at the same time to prevent either party getting an unfair advantage by seeing the other's statement before submitting their own.

The 9 week deadline

Within 9 weeks of the start date you and Natural England may comment on each other's statements made before the 6 week deadline and on any comments submitted by third parties.

We expect both you and Natural England to have given us all evidence in the grounds of appeal and statements of case, so the opportunity to comment at 9 weeks must not be used as a means of introducing new material or putting forward arguments that should have been included in your 6 week statement. **We will reject and return representations received at this stage if they raise new issues.**

Notice of the hearing

Unless a shorter period of notice is agreed with you and Natural England we will give at least 4 weeks notice of the arrangements for a hearing. We may also require Natural England to place a notice in a local newspaper and we will place a notice on our web site at least 2 weeks before the hearing is to convene.

We have a duty to decide all mapping appeals as efficiently and cost-effectively as possible whilst giving equal opportunities to all parties. However, we have limited time to deal with the appeals received in response to each provisional map. For this reason you and the Agency will only be able to refuse one date offered for the hearing. If you refuse the first date, we will

choose an alternative. We will do our best to avoid any inconvenient dates you tell us, but because of the limited time we have to determine appeals in any area we cannot guarantee that we will be able to find a more convenient day. If you are unable to attend on the date fixed for your hearing, you should consider sending somebody to present your case for you.

We must also notify any third parties so that they may attend if they wish to. At a hearing third parties have no *right* to speak, but may be heard at the discretion of the Inspector.

Will I be able to ask for a postponement?

We must consider the interests of everyone who is involved in appeals. Keeping a continuous flow of cases with minimum disruption will be for the benefit of the majority of appellants. We will, of course, assess each request for a postponement on its merits, but because of the expense and inconvenience for others postponements will only be granted in exceptional circumstances. Even if we consider the grounds for postponement are reasonable, we will normally only agree provided that there is sufficient time to notify everyone involved in the appeal.

Conduct of a hearing

The procedure at a hearing is for the Inspector to decide, although there might be instances where he/she takes advice from the **Presiding Officer** (if one is present). The Presiding Officer will be an experienced senior Inspector, who will be available to give advice on procedural issues when required. The Presiding Officer will **not** take evidence from the parties and will not have any role in making the decision.

The Presiding Officer will normally open the hearing at the appointed time, even if you or Natural England are absent. He/she will start by introducing the Inspector and him/herself and describing the purpose of the hearing. The Presiding Officer will then hand over the running of the hearing to the Inspector and will usually take no further part in the event, unless asked to advise on a point of procedure by the Inspector. If there is no Presiding Officer, the Inspector will introduce him/herself and describe the purpose of the hearing.

The Inspector will explain that the hearing will take the form of a discussion which he/she will lead. The Inspector will summarise his/her understanding of the case from reading the papers and will outline what he/she considers to be the main issues and indicate any matters which require further clarification or explanation. This will not prevent any party from raising issues that the Inspector does not mention.

Should I instruct a representative to present my case?

You do not have to be represented by someone else at a hearing. In most cases Natural England will be represented by one of their salaried staff and will not employ a lawyer or other advocate. You may decide to instruct an advocate or specialist, or simply ask someone you know to speak for you, but the Inspector will ensure that the hearing is conducted correctly and the appeal decided fairly whoever presents each case. The Inspector will ensure that you will have an opportunity to state your case and to reply to the case made by others.

You will not, therefore, be at a disadvantage if you do not have professional representation.

What happens after the hearing?

The Inspector will make a visit to the appeal site and will ask if you and Natural England wish to accompany him/her. The site visit may take place on the day of the hearing but may be shortly after. You may accompany the Inspector when he/she visits the site. When deciding whether to accompany the Inspector you should bear in mind that the Inspector will be unable to accept evidence or discuss your appeal (unless he/she has adjourned the hearing to the site). The Inspector may, however, ask you to point out physical features referred to in your evidence. This rule will be strictly observed by Inspectors.

As it is likely that Natural England will not attend the site visit, it is essential that the visit does not allow you to gain an unfair advantage. Should you raise points of evidence during the visit, the Inspector will ask you not to do so and explain why. If you continue to discuss the evidence it is likely that the Inspector will stop the visit and leave the site.

After the site visit has taken place the Inspector will give a written decision based on the evidence before him/her. When making his/her decision the Inspector will, in all but exceptional circumstances, disregard any written representations, evidence or any other document received after the hearing has closed.

6. The inquiry procedure

This is the most formal and the demanding of the three procedures. We anticipate that public inquiries will only be required for appeals involving very complex or numerous issues.

The timetable of events following the start date

The 2 week deadline

Within 2 weeks of the start date Natural England must have provided you and us with copies of any third party representations they received in respect of the appeal site during the draft map consultation period. They will also copy to you and us any correspondence they exchanged with you over the draft map.

The 6 week deadline

Within 6 weeks of the start date you and Natural England must have provided us with your **statement of case**. Your statement of case should ~~outline~~ outline all the arguments that you intend to put before the inquiry, but it does not need to contain details of the evidence. The statement should also include a list of all the documents that you will rely on when presenting your case at the inquiry and that you will refer to in your proof of evidence (see "*Deadlines to be met 4 weeks before the inquiry opens*" below). This enables both you and Natural England to know as much as possible about each other's case at an early stage and will help the inquiry to focus on the key issues. It also reduces the risk of a party asking for an adjournment and applying for an award for costs on the grounds that the other party's behaviour has caused them unnecessary expense. (See section 10 of this guidance)

Third parties may also submit representations which the Inspector may wish to explore in more detail at the inquiry, perhaps by calling them to give evidence if they attend.

All representations that have been received within time will be copied to you and Natural England once the 6 week deadline has passed. Your statement of case and that of Natural England's will be despatched by us to the other party at the same time to prevent either party getting an unfair advantage by seeing the other's statement before submitting their own.

The 9 week deadline

Within 9 weeks of the start date you and Natural England may comment on each other's statements made before the 6 week deadline and on any comments submitted by third parties. We expect both you and Natural England to have given us all of the evidence in the grounds of appeal and statements of case. The opportunity to comment at 9 weeks must not be used as a means of introducing new material or putting forward arguments that should have been included in your 6 week statement. **We will reject and return representations received at this stage if they raise new issues.**

Deadlines to be met 4 weeks before the inquiry opens

At least 4 weeks before the opening of the inquiry you and Natural England must send to us a **proof of evidence** and Natural England must send to us a **statement of common ground**.

A **proof of evidence** is a document containing the written evidence about which a person appearing at a public inquiry will speak, together with a copy of any documents that will be produced. Proofs should be concise and ideally contain facts and expert opinions generated from witnesses or a party's own professional or local knowledge. Where the proof makes a point that relies on a document, the page and paragraph number in that document should be identified and cross-referenced. Plans, photographs and diagrams should be listed as documents.

Your proof should not include matters that are not in dispute (see "*statement of common ground*" in the next paragraph). If your proof contains more than 1,500 words it should be

accompanied by a written summary. Summaries should not exceed 10% of the number of words contained in the proof. If you submit a written summary only the summary may be read out at the inquiry, unless the Inspector permits or requires otherwise. However, even if only the summary is read out, the witness may still be cross-examined on the contents of the full proof.

The **statement of common ground** is a written statement that you and Natural England must prepare jointly. It should contain basic matters such as a site description and any other undisputed factual matters, as well as any agreements as to the evidence which you and Natural England have been able to reach, whether at the pre-inquiry meeting, if one was held, or otherwise. Its purpose is to set out the agreed factual information about your appeal and it should, by narrowing the areas of dispute, result in shorter proofs of evidence and quicker inquiries. Failure to reach agreement on the statement of common ground could, if resulting from non-co-operation rather than a genuine disagreement on the facts, lead to an application for costs.

Once the statement has been agreed it is the responsibility of Natural England to submit it to us at least 4 weeks in advance of the inquiry. Any third party wishing to see the statement of common ground should contact the Natural England - telephone: 0117-974 6284, or e-mail: mapping.appeals@countryside.gov.uk, or post: Appeals Team, Natural England, 5th Floor, 1 Redcliff St, Bristol, BS1 6NP. The statement can be supplied by post (for which you may be charged) or e-mail, or may be seen by prior appointment at one of the Natural England's offices.

Pre-inquiry meetings

A pre-inquiry meeting *may* be held when we think it will simplify the inquiry or when we expect an inquiry to last for 8 days or more. If we decide to hold a pre-inquiry meeting into your appeal, we may provide a **statement of matters** on which we think it will be particularly helpful for the Inspector to be informed.

The purpose of the statement of matters is to provide a clear indication of what we think are the key issues. It is intended to assist you, Natural England and any other parties we may invite to the pre-inquiry meeting to prepare for the inquiry. It is not intended to be a definitive statement because Inspectors must be free to hear all evidence that they believe is relevant to the case. The Inspector may also seek agreement at the pre-inquiry meeting on a programme and other procedural arrangements to ensure the smooth and efficient running of the inquiry.

At the pre-inquiry meeting the Inspector may request further information from you or Natural England and you will be required to submit that information within 4 weeks of the conclusion of the meeting.

What publicity will be given to the inquiry?

Once the arrangements have been finalised we will give you, Natural England and any third parties who have sent representations concerning the appeal site at least 4 weeks written notice of the inquiry. In most cases we will be able to give you a much longer period of notice. Not less than 2 weeks before the inquiry is to open we may require Natural England to place a notice of the inquiry in a local newspaper. We will also post notice of the inquiry on our web site at least 2 weeks before the event. We will notify third parties so that they may attend if they wish.

We have a duty to determine all mapping appeals as efficiently and cost-effectively as possible whilst giving equal opportunities to all parties. However, we have limited time to deal with the appeals received in response to each provisional map. For this reason you and Natural England will only be able to refuse one date offered for the inquiry. If you refuse the first date, we will choose an alternative. We will do our best to avoid any inconvenient dates you tell us but because of the limited time we have to determine appeals in any region we cannot guarantee that we will be able to find a more convenient day. If you are unable to attend on the date fixed for your inquiry, you should consider sending somebody to present your case for you.

Will I be able to ask for a postponement?

We must consider the interests of everyone who is involved in appeals. Keeping a continuous flow of cases with minimum disruption will be for the benefit of the majority of appellants. We

will, of course, assess each request for a postponement on its merits, but because of the expense and inconvenience for others postponements will only be granted in exceptional circumstances. Even if we consider the grounds for postponement are reasonable we will normally only agree provided that there is sufficient time to notify everyone involved in the appeal.

Should I instruct a representative to present my case?

You do not have to be represented by someone else at an inquiry. In most cases Natural England will be represented by one of their salaried staff and will not employ a lawyer or other advocate. You may decide to instruct an advocate or specialist, or simply ask someone you know to speak for you, but the Inspector will ensure that the inquiry is conducted correctly and the appeal determined fairly whoever presents each case. The Inspector will ensure that you will have an opportunity to state your case and to reply to the case made by others.

You will not, therefore, be at a disadvantage if you do not have professional representation.

How can I obtain copies of documents listed in Natural England's statement of case?

The Regulations make provisions for you to be able to require from Natural England, and for Natural England to be able to require from you, copies of any documents you each intend to put forward as evidence at the inquiry. Failure to respond to a request to provide documents may result a need to adjourn the inquiry which, in turn, may result in an award of costs against you or Natural England if they behaved unreasonably.

Who will be allowed to speak at the inquiry?

You and Natural England are the only parties with a statutory right to speak at the inquiry. However, the Inspector will not unreasonably withhold permission from any other person to appear provided they have something relevant to say which has not already been said.

Procedure at inquiry

The procedure will be determined by the Inspector who conducts the inquiry, however as a general guide, it will normally take the following form:

Introduction

- The Inspector will introduce him/herself. He/she will then explain how the inquiry will continue, making reference to any agreement reached at the pre-inquiry meeting. The Inspector will ask who wishes to speak and whether there are requests for special arrangements, for example if someone wishes to be heard out of turn if they have to leave early.
- The Inspector will then identify the likely main issues – again referring to the pre-inquiry meeting if there was one, and the position on the receipt of proofs of evidence.

Presenting the cases

- You (or your representative) and Natural England may be invited to make a brief opening statement of not more than 15 minutes.
- Natural England will give evidence first and you will then have the right to make your case in full. Third parties will be heard in the order determined by the Inspector. Regardless of who is speaking, the Inspector may refuse to hear evidence that is irrelevant or repetitious or offensive.
 - Natural England call their witnesses in turn to give evidence. Witnesses may then be cross-examined by you. You must use this opportunity to ask questions only. If the Inspector considers that you are making a statement rather than asking questions, or if your questions are repetitive, he/she will stop you. The witnesses are then re-examined by Natural England, but this must be strictly confined to matters raised in cross-examination.
- The Inspector may ask you, Natural England and witnesses questions to obtain relevant

information. If the questions asked by the Inspector raise matters which could harm that party's case additional re-examination will be allowed.

- This process is then repeated for you and your witnesses.
- Only you and Natural England have the right to cross-examine, although the Inspector may permit other persons to do so if they have stated they wish to speak.
- You will have the right of final reply. When making your closing statement you may remind the Inspector about any important points that have come up during the questions, but you must not introduce any new evidence because Natural England, having already made their closing comments, would have no right of reply. The Inspector may then make arrangements for a site visit before formally closing the inquiry.

What happens after the inquiry?

The Inspector will visit the appeal site and he/she will ask if you and Natural England wish to accompany him/her. The site visit may take place on the day of the inquiry but if not will be shortly after. You may accompany the Inspector when he/she visits the site. When deciding whether to accompany the Inspector you should bear in mind that the Inspector will be unable to accept evidence or discuss your appeal. The Inspector may, however, ask you to point out physical features referred to in your evidence. This rule will be strictly observed by Inspectors.

As it is likely that Natural England will not attend the site visit, it is essential that the visit does not allow you to gain an unfair advantage. Should you raise points of evidence during the visit, the Inspector will ask you not to do so and explain why. If you continue to discuss the evidence it is likely that the Inspector will stop the visit and leave the site.

After the site visit has taken place the Inspector will give a written decision based on all the evidence before him/her. When making his/her decision the Inspector will, in all but exceptional circumstances, disregard any written representations, evidence or any other document received after the inquiry has closed.

7. Changes to procedure

Whilst the whole appeals process will work better for everyone if appellants and Natural England do not change their minds about the procedure to be followed, there may be circumstances which justify changes to the chosen procedure. Both you and Natural England have a right to require that the appeal is "heard" (ie: discussed in front of an Inspector). The Inspectorate also has a right to "hear" an appeal, the choice of whether to hold an informal hearing or a public inquiry is one which only we can decide.

What happens if I want to change an agreed procedure?

If you or Natural England have agreed to written representations but subsequently decide you want to be heard by an Inspector, this will be possible provided the Inspector's decision upon your appeal has not yet been issued. If we receive such a request we will decide whether a hearing or inquiry would be more appropriate. If you ask to be heard at an inquiry, rather than a hearing, you will be required to supply grounds for your request.

If you opted to be heard initially but subsequently decide you would prefer to conduct your appeal through an exchange of correspondence, we must ask Natural England for their views before reaching a decision, and we may then change the procedure to written representations.

What happens if the Natural England concedes my appeal?

If at any point during the life of your appeal, Natural England decides that they were wrong to map the appeal site they will tell us and we will let you know immediately. However, the Act does not permit a validly made appeal to bypass the procedures set out in Regulations, so even conceded appeals need to be advertised on our website. This might result in representations being made by third parties seeking to support or oppose your appeal. Likewise, third parties who made representations in respect of the appeal site at draft map stage must be given the chance to add to or withdraw their comments. You and Natural England still have an opportunity to submit statements 6 and 9 weeks after the start date (although this would normally serve little purpose unless comments on third party representations were necessary).

If your appeal was due to be dealt with at a hearing or inquiry, we will ask if you still wish to be heard by the Inspector or whether you are content for the case to be determined by the written representations procedure instead. If you are content to rely on written representations, we will appoint an Inspector to make a decision on the basis of your appeal form, the Agency's statement conceding the appeal and any other documents submitted as evidence. If you still wish to be heard because you prefer to make your case to the Inspector in person, we will proceed with the hearing or inquiry. If any third parties wish to attend, they may seek permission from the Inspector to speak either for or against your appeal.

What happens if I decide to withdraw my appeal?

You can withdraw your appeal at any time before we issue our decision on it. If you decide to withdraw you **must** telephone the case officer immediately and then write to confirm the withdrawal giving the appeal reference. It is especially important that you do this if we have arranged an inquiry or hearing. If you withdraw your appeal after we have made arrangements for your case to be heard, and the Agency or third parties can demonstrate that you acted unreasonably at any point in the process, you may have to pay some of the costs incurred by them.

8. How the decision will be made

The Inspector's decision on an appeal will always be made in writing. Each decision will summarise the Inspector's conclusions on all the relevant facts and arguments which have been presented in evidence. It will be sent to you, the Agency and third parties as soon as possible after the Inspector's site visit, hearing or inquiry. Copies of all Inspectors' decision will also be published on our web site: <http://www.planning-inspectorate.gov.uk/access/>

Decisions by the Secretary of State

Nearly all decisions will be taken by Inspectors appointed by the Secretary of State, but occasionally the Secretary of State may decide that an appeal raises such important issues that she should make the decision herself. If this is the case the procedures are identical to those we have described above, but instead of the Inspector writing a decision he/she will write a report and submit it to the Secretary of State. The report will include conclusions on the issues raised and a recommendation as to whether or not the appeal should be allowed.

The Secretary of State doesn't have to accept the recommendation and will consider everything that is relevant. If the Secretary of State disagrees with the Inspector's conclusions you and the Agency will have a chance to comment on her reasons for disagreeing before the decision is made. If necessary, the Secretary of State may re-open the inquiry. The decision will be copied to everyone who is entitled to receive it.

9. How long will it take?

We will not arrange for Inspectors to carry out site visits, hearings or inquiries until the appeal period for each area has ended. This will allow us to identify different appeals relating to the same area of land and to plan hearings, inquiries and Inspectors' visits to all the appeal sites in the most cost-effective way. The efficiencies that this offers should allow us to determine all appeals as quickly as possible.

The number of appeals received in response to each of the provisional maps will have a direct effect on how long it takes to decide them. We appreciate that appellants will be anxious to receive the decision upon their appeals as soon as possible. We will issue decisions as quickly as possible after the Inspector has considered all the evidence. We anticipate that in the majority of cases a decision will follow within three weeks of the site visit, or the closure of the hearing or inquiry where no site visit takes place.

10. Costs

Who can apply for costs?

You will normally have to pay your own expenses for making your appeal, whether it is decided by way of written representations, a hearing or inquiry. If the appeal is decided by a hearing or inquiry and you can show that the Countryside Agency behaved unreasonably and in so doing put you to unnecessary and wasted expense you can ask the Inspector (or the Secretary of State) to order the Agency to pay all or some of your costs.

If the appeal is decided by a hearing or inquiry, the Agency can also ask for you to pay some or all of their costs if they believe you behaved unreasonably and put them to unnecessary and wasted expense. Third parties may also ask for costs to be awarded against either you or the Agency if one of you behaved unreasonably and thus caused unnecessary or wasted expense.

A claim for costs could be made, for example, if through one party's late introduction of evidence the inquiry or hearing had to be adjourned or prolonged. Under section 7(3) of the Act you may also be liable to pay costs if, having asked to be heard, you withdraw your appeal after the date for your hearing or inquiry has been confirmed. Similarly, if the Agency were to concede your appeal after the inquiry or hearing date had been fixed they may also be liable to pay costs.

When and how should I apply for costs?

There is no formal procedure or application form. An application for costs should be made **to the Inspector at the hearing or inquiry**, though it is open for one party at any time before the hearing or inquiry to advise the other of an intention to apply for costs. The decision on any costs application will be sent after the issue of the appeal decision.

Further information

For further information on the rules relating to costs, please see DOE Circular 8/93, available from the Stationery Office, telephone 0870-600 5572 or their web site <http://www.hmso.gov.uk>, or on the Inspectorate's web site <http://www.planning-inspectorate.gov.uk/>

11. How do I complain if I am not happy with the way you have handled my appeal?

If you have any complaints about the decision or the way we have handled your appeal please write to:

The Planning Inspectorate	phone: 0117-372 8252
Quality Assurance Unit	fax: 0117-372 8139
4/09 Kite Wing	e-mail: complaints@planning-inspectorate.gsi.gov.uk
Temple Quay House	
2 The Square	
Temple Quay,	
Bristol BS1 6PN	

The Quality Assurance Unit will reply to you, or they will ask someone else within the Inspectorate to reply if they have specialist knowledge of the issues raised. They will investigate your complaint and you can expect a full reply within 3 weeks. However, the Inspectorate cannot reconsider your appeal if the decision has already been issued. The only circumstances under which we will be able to reconsider your appeal is if you successfully challenge the decision in the High Court.

How can I challenge a decision?

You may be able to challenge the decision of the Secretary of State (including the Inspector appointed to determine the appeal) by way of judicial review in the High Court. The Inspectorate strongly recommends that you seek legal advice if you intend to do so.

12. About the Planning Inspectorate

We are an executive agency of the Office of the Deputy Prime Minister. Our Access Team deals with all appeals made under Part I of the Countryside and Rights of Way Act 2000. The team is based at:

Room 215 phone: 0117-344 5680 or 5738
Regus House fax: 0117-344 5242
1 Friary e-mail: access@pins.gsi.gov.uk
Temple Quay
Bristol BS1 6EA

The team are responsible for receiving the appeals and documents submitted by the relevant access authorities. The staff will also answer queries on appeal procedures and the progress of specific cases.

You will find more detailed information about the Planning Inspectorate in the Chief Planning Inspector's Annual Report and Accounts. You can get the latest edition from Government bookshops or from the Inspectorate's web site at <http://www.planning-inspectorate.gov.uk>.

13. Data Protection and Privacy in the Planning Inspectorate

Under the Data Protection Act 1998 we have a legal duty to inform you about and protect any information we collect from you. When considering an appeal, the Inspector (or the Secretary of State) receives a variety of personal information. This information comes from a number of sources including the appeal form and any documentation of support or objection.

In accordance with current statutory obligations most of the documentation received will be made accessible to the public. Nevertheless, the Planning Inspectorate recognises the importance of the privacy of individuals. This section sets out what information we collect and how it will be used.

Data Protection

The Planning Inspectorate has put in place procedures to ensure that it complies with the Data Protection Act 1998 when handling your personal information.

In particular we will:

- only use your personal information for the purpose of dealing with and considering the relevant appeal;
- only hold your personal information for as long as is reasonably necessary. For completed appeals this is usually 12 months and in the case of challenges, these are held for 3 years.
We will retain a copy of the Inspector's decision indefinitely. It may be that personal information could form part of the Inspector's decision.

Who has access to your personal information?

The appeal papers will be open for inspection at specified locations and anyone can inspect and take copies of them. Any person entitled to be notified of the decision in an inquiry case has a legal right to apply to inspect the listed documents, photographs and plans within 6 weeks of the date of decision. Other requests to see the appeal documents will not normally be refused.

In addition information received may be placed on our web site and will be accessible worldwide by any third party including individuals or organisations who have no direct interest in the particular appeal.

What information do we hold?

When dealing with a planning appeal we could receive personal information about you from a number of parties, including yourself, the Countryside Agency or other parties interested in the appeal. The information we receive is varied but may include your name, address and occupation, and information relating to your opinions or intentions in respect of an appeal.

What steps should you take?

- Only provide personal information if you are happy for it to be placed in the public domain;
- Do not include personal information about another third party (including family members) unless you have told the individual concerned and they are happy for you to send it;
- Tell us as soon as possible if any of the personal information you have provided should change.

The Data Controller

The data controller (the organisation responsible for dealing with personal information) is the Office of the Deputy Prime Minister.

Your rights to see personal information

We have to provide you with a readable copy of the personal data that we keep about you within 40 days. There is a statutory charge of £10. Evidence of proof of your identity will be required before information is released. It is both in our interest and yours to hold accurate data. If the data we hold is inaccurate in any way, then without charge and where appropriate, you may have the data:

- erased
- rectified or amended
- completed.

For any enquiry or concern about our privacy policy, or to request access to your personal data contact our Data Manager:

Data Manager	Telephone: 0117 372 8922
The Planning Inspectorate	E-mail: alastair.grant@planning-inspectorate.gsi.gov.uk
Room 316 Eagle Wing	
Temple Quay House	
2, The Square	
Bristol, BS1 6PN	

Related information about our privacy policy is available on our web site at <http://www.planning-inspectorate.gov.uk> at the section marked "Privacy Statement".

Complaints about access to personal information

We aim to ensure that we have resolved any matters satisfactorily, however if you are not satisfied with our response you may contact:

The Information Commissioner	Switchboard: 01625 545 700
Wycliffe House	Fax: 01625 524 510
Water Lane	DX: 20819 Wilmslow
Wilmslow	Web site: http://www.dataprotection.gov.uk/
Cheshire	E-mail: mail@dataprotection.gov.uk
SK9 5AF	