

The Planning Inspectorate

Making your planning appeal

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Tel: 029 2082 3866

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Planning Inspectorate

Our quality statement

We aim to provide the following in the appeal process:

- clear, prompt and polite advice and information;
- quick and efficient handling of your appeal;
- an open exchange of views between the people involved in the appeal;
- fair and unbiased decisions by appropriately qualified people;
- clear, logical decisions and reports;
- a quick and thorough complaints procedure; and
- a service that gives the public confidence in us.

If you need this document in large print, on audio tape, in Braille or in another language please contact our helpline on 029 2082 3866

This document is also available on our website (www.planning-inspectorate.gov.uk). The Planning Portal (www.planningportal.gov.uk) contains a large amount of information about the planning system in Wales and England, including lists of useful contacts and planning related services. Access to the Planning Portal is free of charge.

About the Planning Inspectorate

We are part of the National Assembly for Wales (The Assembly) and Office of the Deputy Prime Minister (ODPM). We deal with planning appeals in Wales from our Cardiff office and planning appeals in England from our Bristol office. The Inspectors, who judge the appeals, have a variety of backgrounds. These include town planning, surveying, engineering, architecture and law. We choose the Inspectors very carefully and train them thoroughly. They generally work from home.

When our office staff get your appeal form, they will collect all the information about your case. If you have any questions about it you can contact your case officer. We will give you their name and phone number. Just before the site visit, hearing or inquiry, the case officer will send your appeal papers to the Inspector, who will study them. In most cases after holding an inquiry or hearing, or visiting the site, the Inspector writes the decision. Your case officer will send the decision to you.

This booklet explains the planning appeal procedure for appeals in Wales that are made after 1 April 2003. If you want advice about appeals in England you should contact our Bristol office. The information it contains was correct when it was published. But it has no legal status. We will deal with every appeal as efficiently as we can, but to do this we rely on everyone's co-operation. Appeals to do with listed buildings or buildings in a conservation area are very similar to normal planning appeals. Appendix 4 tells you about the small differences there are.

1 Whether to appeal

- 1.1 If the local planning authority (LPA) turns down your planning application, you should look carefully at the reasons why they turned it down before you send your appeal to us. You should speak to the LPA to see if you can sort out the problem – perhaps by changing your proposal. Often, if you change your proposal and apply again within one year of the refusal you won't have to pay another fee. An appeal should only ever be a last resort.

The right of appeal

- 1.2 You can appeal to the Assembly in the following circumstances.
- i. If you applied to the LPA for planning permission, and they:
 - refused permission;
 - gave permission but with conditions you think are inappropriate;
 - haven't approved the details of a scheme which they or the Assembly has already given outline planning permission for; or
 - have approved the details of a scheme but with conditions you think are inappropriate or unreasonable.
 - ii. If the LPA rejected a proposal arising from a condition on a planning permission.
 - iii. If the LPA don't decide your application within the time allowed. Normally the time allowed is eight weeks from when they accept your application or the end of any extension agreed in writing.
 - iv. If the LPA told you that they needed more information before they could decide your outline planning application, but you do not want to supply this.

Time limits for sending your appeal

- 1.3 If you are going to appeal, **we must receive all your appeal documents within six months from the date of the notice of the LPA's decision.** If you are appealing under 1.2 (iii), the six-month period starts from the date the LPA should have given their decision. If you are appealing under 1.2 (iv), the six-month period starts from the date the LPA told you that they needed more information.
- 1.4 You should decide as soon as possible if you are going to appeal. We must receive all the documents supporting your appeal within the time limit, otherwise we will not take any action on your appeal. We cannot normally accept a late appeal. We will only do so in exceptional circumstances.

Your chances of success

- 1.5 The chances of an appeal being successful depend on the merits of the proposals and how they fit in with local and national planning policies. You can get more information on appeal decisions in our yearly statistical report. You can get a copy of this by writing to the address on page 8, or from our website at www.planning-inspectorate.gov.uk.
- 1.6 One important thing to consider is how the proposal fits in with the Council's policies for the area. These will be in the Unitary Development Plan (UDP) or, if this is not yet adopted by the Council, in a Structure Plan or a Local Plan. Council officials will explain all these terms to you. The LPA's decision notice will tell you which of their policies influenced their decision. When the Inspector considers your appeal, he or she will take into account:
- the relevant UDP, Structure Plan and Local Plan policies;
 - any plan which is still being prepared;
 - any other planning advice published by your LPA;
 - all other relevant facts; and
 - national advice and guidance on planning policy.
- 1.7 Some planning restrictions apply nationally. These include development on green-belt and green wedge land, access to main roads and the development of good-quality agricultural land. You can find out about the Assembly's current planning policies in Planning Policy Wales, National Assembly and Welsh Office Circulars, and in a series of Technical Advice Notes (TANs). You can see these in council offices or local libraries, or buy them from HMSO or other bookshops. There is a list of useful publications in appendix 1 of this booklet.
- 1.8 If you know we have considered an appeal similar to yours, and you know the reference number, you can get copies of the decision for that case. The address to write to is on page 8. You will have to pay for this service. But please remember that each appeal is considered on its own merits.
- 1.9 The Inspector will judge your appeal on its planning merits. It is unlikely that your personal circumstances will outweigh any substantial planning considerations.

Welsh language

- 1.10 We deliver an equally high standard of service to our customers in Welsh and English.

We recognise that our customers can express their views better in their preferred language of communication. Accordingly, we welcome all communications to us in Welsh or English.

Any person wishing to speak at an inquiry or a hearing in the Welsh language, may do so, but it would be helpful if you could inform The Planning Inspectorate beforehand so that arrangements can be made.

The time and money involved

- 1.11 The time and money it takes to make an appeal depends on how complicated the appeal is.
- 1.12 We decide around 75% of appeals after written exchanges of information. This is the quickest method. We decide the remaining 25% of appeals after a hearing or an inquiry. We tell you more about the different methods later in this booklet. You and the LPA have the right to have your appeal heard by a person appointed by the Assembly. This will be in the form of a hearing or inquiry. We can also decide if there should be an inquiry, for example if there is likely to be a lot of local interest or if the issues are likely to be complicated.
- 1.13 You don't have to pay for making the appeal, but you will inevitably have some expenses.
- 1.14 The overall cost of your appeal will depend on whether you employ professional advisers or representatives. Sometimes, when there is a hearing or an inquiry or we have arranged one, one party may be required to pay the other party's costs, as well as their own. Paragraphs 8.1 to 8.4 have more information about this.

2 Making an appeal

- 2.1 Only the person who made the application for planning permission can appeal. To make a valid appeal, you must use an official form. If the site is in Wales, you can get forms from:

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Telephone 029 2082 3866

Please tell us whether your appeal is to do with planning permission or listed building or conservation area consent, as the forms are different. You can use the forms on our website. Our address is www.planning-inspectorate.gov.uk. We cannot accept appeals by e-mail yet. If you want to use the forms on our website you will have to fill them in and send them to us by post or courier. **Don't leave it too late – remember the six-month time limit.**

- 2.2 You should fill in three copies of the appeal form. One is for us, one is for the LPA and the other is for you to keep.

Grounds of appeal

- 2.3 Your grounds of appeal made on the appeal form are your representations for your case. It is important that you set them out clearly. You need to explain why you disagree with the LPA's decision. You should deal with each of the LPA's reasons for turning your application down. It isn't enough just to say that you don't accept the LPA's reasons. If you don't give your grounds of appeal, your appeal may not be valid. If there is anything else you want us to consider, you should tell us clearly but briefly. The LPA can then comment on these issues when they make their statement.
- 2.4 If you want to make a point that would be best illustrated by a plan or photograph (for example if it would involve cutting down trees or affect a neighbour's property), you should send copies with the appeal form to us and the LPA.
- 2.5 If your appeal is about the LPA not giving you a decision on an application, you should say in your grounds of appeal why you think your proposal should be allowed.
- 2.6 If we consider that any of your representations contain racist or abusive comments, we will send them back to you before the Inspector sees them. If you take out the racist or abusive comments, you can send your comments back to us. **But we must receive them before the time limit ends.**

The choice of procedure

- 2.7 If everyone agrees, we will decide the case on the basis of written exchanges of information from you, the LPA and anyone else who has an opinion on your appeal. The information could include maps, plans and photographs but not oral evidence. It depends on the choice of procedure whether we also accept video or sound tapes - see paragraph 2.18 for more information. Whichever procedure is used, the Inspector will visit the site to judge the effect of your proposal on the area.
- 2.8 If you, the LPA or we do not agree to the written procedure, we will arrange a hearing or an inquiry. You can get more details of the different procedures in sections 5, 6 and 7.
- 2.9 When you are deciding what procedure to use, you should take into account the following points.
- The result of your appeal will always depend on its planning merits.
 - The written procedure is usually quicker and cheaper.
 - A hearing is an informal way to give evidence. Formal cross-examination is not usually allowed.
 - You or the LPA can ask for an inquiry, or we can decide that this is the best procedure for your appeal.
 - At an inquiry you can talk to the Inspector personally and challenge any evidence put forward against your appeal.
 - The possibility of costs being awarded. There is more information about this in section 8.
- 2.10 To avoid extra costs and to get a decision as quickly as possible, most people only ask for a hearing or inquiry if they think it is necessary. The written procedure is the most common.

Appeals involving outline planning permission

- 2.11 If you are appealing because your LPA has refused outline planning permission you should remember that any details on the application plan will be treated as part of the appeal proposals unless it clearly says on the plan that those details are only shown as an example. For instance, the position of the proposed building or the ways of getting to it. If you don't do this, even if the Inspector thinks the development is satisfactory in principle, he or she could still turn down your appeal if any of these details aren't acceptable.

Appeals against conditions

- 2.12 There are two ways you can ask for any conditions that the LPA have attached to your planning permission which you think are unreasonable to be altered or removed.
- 2.13 You can appeal against one or more of the conditions within six months of the LPA's decision. **We must receive all your appeal documents within the time limit.** In cases like this, we will look at the **whole permission again**. If the Inspector thinks the conditions are wrong, he or she can change or remove them. They can also:
- change other conditions which you haven't challenged;
 - add more conditions; or
 - take away your permission completely.

But if the Inspector thinks that any other part of the permission (that is, a part of the permission that you haven't appealed against) should be changed, we will write to you to ask what you think, unless we already know from the written information we have. If the Inspector wants to add stricter conditions or take away planning permission altogether, we will give you a chance to withdraw your appeal and keep the LPA's decision and their conditions.

- 2.14 The other way you can ask for the LPA's conditions to be changed is by making another application to them. If you do this and you don't get the decision you want, you can still appeal against that decision. As with all appeals, we must receive all your appeal documents within the time limit.

Certificates and other relevant documents

- 2.15 You need to fill in a certificate about who owns the land with every application for planning permission and your appeal. The LPA send certificates out with the application and we send certificates out with the appeal forms. **If we do not receive these within the time limit, we will not deal with your appeal.**
- 2.16 The certificate is to make sure that the people who own the site know that you are making an appeal, so that they have a chance to comment. There are four different certificates, each covering different circumstances. We send out guidance notes to help you choose the right certificate and explain how you should fill it in with each appeal form.
- 2.17 If you are appealing about approval of the details of an outline planning permission that your LPA has already given or for approval that a condition of your planning permission says you need, you must send us copies of:
- the original application for planning permission;

- the permission itself; and
- any plans the LPA approved.

If we do not receive these within the time limit we will not deal with your appeal.

Video and audio evidence

2.18 We can't accept video or audio evidence for appeals dealt with by written exchanges. This is because we cannot be certain that everyone involved in the appeal will have suitable equipment to play the evidence, or that identical copies have been sent to everyone. You can send a written summary of the content of the video or audio evidence, including photographs, to us and the LPA with your appeal documents.

At a hearing or inquiry, the Inspector will decide whether to consider any video or audio evidence. They will let you know their decision when the hearing or inquiry opens. You must contact the LPA to find out whether they have suitable equipment to use at the hearing or inquiry, or if they will allow you to use your own.

Planning obligations

2.19 Sometimes you may want to enter into a planning obligation to sort out unresolved objections at the same time as you first apply for planning permission. If this is the case, you should send us a copy of the planning obligation you have signed with your appeal papers. Planning obligations are legally binding and you should think about getting legal advice before you sign one.

2.20 If your appeal is being dealt with by the written method and you and the LPA decide to enter into an agreement while we are dealing with your appeal, you must send us a signed and dated copy of the agreement before the date of the site visit. If your appeal is being dealt with by a hearing or inquiry you must send us a draft copy ten working days before the hearing or inquiry opens. You must send us a completed copy by the time the hearing or inquiry closes. We will issue the Inspector's decision even if you and the LPA are still discussing the agreement.

Sending in the appeal form

2.21 You must make sure that we receive copies of all the relevant documents. You must send a copy of the appeal form direct to the LPA, with copies of any documents or plans you are sending to us that the LPA haven't already got. You need to show clearly where the site is by sending us a location plan, using a street map or a 1:10,000 Ordnance Survey map. The address to send your appeal to is shown on the appeal form and on page 6 of this guide.

Checklist

2.22 Before you send the appeal form to us and the LPA, you should make sure that you have included:

- the right appeal certificate to say who owns the land;
- a copy of your application to the LPA;
- a copy of the certificate concerning the ownership of the land that you sent with the original planning application;
- a list of, and copies of, all relevant documents, drawings and plans which were part of the original planning application, including an environmental statement, if you sent one with your application, or if the LPA asked for one;
- a copy of any decision by the LPA that the application has to be dealt with under the Environmental Impact Assessment Regulations 1999 (a screening opinion);
- copies of all relevant letters (including any letters or drawings sent to the LPA changing the application);
- a copy of the LPA's decision (if there is one);
- a plan showing the site in relation to two well-established named roads; and
- if you want approval of details of an application, a copy of the original application for outline planning permission, the plan and the outline permission itself.

If the LPA haven't seen any of the documents you are sending to us, please remember to send copies to them. We explain what you must send on the appeal form.

Remember, if we don't receive all your appeal documents within the six-month time limit, we won't deal with your appeal.

Who decides your appeal

2.23 You make planning appeals to the National Assembly for Wales. Almost all appeals can be decided by Planning Inspectors. The Assembly can decide any planning appeal, but does so in less than 2% of cases, usually if they are large or controversial developments. It won't decide your appeal just because you have asked for this. But if it does, we will tell you why.

Withdrawing your appeal

- 2.24 You can withdraw your appeal at any time before we give the decision. You may want to do this if, for example, you and the LPA agree a different proposal, or realise that a new application will sort out your differences without an appeal. If you decide you want to withdraw your appeal you should phone your case officer straight away and then write to confirm the withdrawal, giving the appeal reference number. You should also tell the LPA immediately. This is especially important if we have arranged for a hearing or inquiry to take place. If you unreasonably withdraw your appeal after we have written to you to tell you the hearing or inquiry date, you may have to pay the costs of the other people involved in the hearing or inquiry. Section 8 has more information about costs.

3 Is anyone else involved?

Other people can offer their views

- 3.1 Any other people who have an interest in your appeal, for example environmental groups or neighbours, are called ‘interested persons’. We will give them a chance to tell us what they think of your proposals.

How will they find out about the appeal?

- 3.2 We will ask the LPA to tell the people who took part in the consultations when you first applied for planning permission that you have appealed. The views they first gave to the LPA will be sent to us and you. If they want to make more comments, they should write direct to us. We will send copies to you and the LPA. You will each have a chance to make comments on their letters. For appeals that we are deciding by a hearing or inquiry, the LPA will tell interested persons when and where this will be and let them know that they can attend. They can also inspect your appeal papers, and the LPA’s written evidence supporting their decision, at the council’s offices.
- 3.3 If there is going to be an inquiry, you must put a notice on the appeal site telling people about it. We will send this notice to you. The LPA may also have to put up notices in public places and tell the local papers.
- 3.4 We must also take into account the views of certain groups who have a right to comment, for example, owners of the site, community or town councils and so on. You and the LPA will have a chance to see the comments they have made and give us your views.

4 Timetable for appeals

- 4.1 There are important time limits to keep to when you send us comments on your appeal. They apply to the LPA as well. When we have accepted your appeal we will write to you confirming which procedure it will follow. Our letter will also tell you the 'starting date'. This is an important date because it starts the timetable for us receiving comments from you and the LPA, and tells you about the time limits. **If we receive comments after any of the time limits, we will not normally take them into account and we will send them back.**
- 4.2 The following timetable and stages apply to all appeals, whatever procedure is used.
- v. Two weeks after the starting date, the LPA will send you and us a questionnaire which they have filled in. They will also tell interested persons about the appeal by the same date. We do not return the questionnaire if it is received after the due date, and it will be taken into account when the appeal is determined.
 - vi. Six weeks after the starting date, you and the LPA can send a statement of your case. We will send you and the LPA a copy of what the other has sent and any comments from interested persons (if we have received them in time). If they are not received in time, they will be returned and will not be taken into account when the appeal is determined.
 - vii. Nine weeks after the starting date, you and the LPA can send us any comments on each other's statement and comments from interested persons. If they are not received in time, they will be returned and will not be taken into account when the appeal is determined.

Some other stages apply if your appeal is being dealt with at a hearing or inquiry. These are explained in sections 6 and 7.

5 The written procedure

- 5.1 Appeals which are decided by the written procedure are governed by The Written Representations Regulations (see appendix 5 for the full title). The timetable for the written procedure is designed to make the appeal proceed quickly and fairly. Everyone involved in the appeal should keep to the timetable or we may not consider their comments.
- 5.2 The grounds of appeal, set out on the appeal form, make up your case. If you don't give them to us, or if we think your grounds are inadequate, we will ask you for more details. If we don't receive them in time we won't deal with your appeal.
- 5.3 The regulations say that the LPA must fill in a questionnaire and send it to you and us with documents to support their decision. These documents include:
- copies of relevant letters to any public organisation and interested persons about the application;
 - the planning officer's report to committee, if available;
 - any relevant committee minutes; and
 - extracts from the relevant plans or policies that the decision was based on.

They will say if they are going to give another written statement. If they do, you will have a chance to comment on it.

- 5.4 **Within six weeks of the starting date** we must receive two copies of any additional comments you, or the LPA, want to make. We will send a copy of your comments to the LPA and send you a copy of anything they send us. We will also send you any comments from interested persons.
- 5.5 **Within nine weeks of the starting date**, you and the LPA can send us any comments on each other's statement and on those representations made by interested persons. Your comments must relate to these matters only, and not include any more new evidence. If we receive these outside the time limit, we will not normally consider them.
- 5.6 Don't comment just for the sake of it.

Late comments

- 5.7 We expect everyone involved to keep to the timetable. If we receive comments from you, the LPA or interested persons after the time limit ends, the Inspector will not normally consider them when deciding your appeal. If the Inspector asks for more information from you or the LPA, we will send a copy of that information to you or the LPA. We will allow time for comment.

The site visit

- 5.8 We will send the appeal papers to the Inspector. He or she will study the proposals, plans and comments, and will visit the site to judge the likely effect of your proposal on its surroundings.
- 5.9 If you said on your appeal form that the Inspector can view the site from public land, and the LPA agree, we will arrange an unaccompanied site visit where the Inspector will not meet anyone. But remember that when you use the written procedure anything you want to say about a proposal must be in writing. You can't tell the Inspector why you think your appeal should be allowed during the site visit. So an inspector only needs to be accompanied if he/she can't see everything necessary from roads or other public land.
- 5.10 When we arrange an accompanied site visit both you and the LPA have to be there or have someone to represent you. Unless there is someone from both sides there, the Inspector will make the inspection alone. If this isn't possible, we will rearrange the visit for a time when all sides can be there.
- 5.11 If the Inspector needs to go on private land to make the inspection, you must arrange this. We will tell anyone who asks us the date and time of the visit.
- 5.12 When Inspectors make an accompanied site visit, they will introduce themselves and find out the names of everyone there. They will make sure that everyone agrees that they are dealing with the plans the LPA has considered. If people disagree, the Inspector will ask them to sort out the disagreement between themselves. The Inspector won't take part in these discussions. They can't accept any changes to the proposal at the site visit. If you want to change the proposal, you must do it in writing, even for very small changes.
- 5.13 The Inspector will ask people to point out any physical features on, or near the site. He or she may also want to confirm particular features people talked about in the written comments they sent us. **You can't discuss why you think your appeal should be allowed.**
- 5.14 Sometimes, the owners of the land next to the appeal site ask the Inspector to look at the planned development from their property. If the Inspector thinks this is necessary they will tell you and the LPA at the site inspection. If the Inspector goes onto someone else's land as part of the site visit to look at the planned development from there, you and the LPA must go too.

See the diagram of the written procedure at appendix 1.

6 The hearing procedure

- 6.1 If you or the LPA don't agree to the written procedure, there will be a hearing or inquiry instead. Hearings are less formal than inquiries and take the form of an open discussion led by the Inspector. The hearing procedure is usually quicker and cheaper than an inquiry. We will agree to a hearing whenever it is appropriate. But hearings aren't suitable for all appeals, especially those which are complicated or controversial, or have caused a lot of local interest or where it is necessary to cross-examine witnesses. You and the LPA can therefore ask for a hearing but you do not have the right to one. We will make the final decision whether to hold a hearing or not.
- 6.2 The regulations for dealing with hearings are The Hearings Procedure Rules (see appendix 5 for the full title). Like other procedures, there are important time limits for us to receive your comments. The Inspector will not normally consider any comments we receive after the time limit ends, and we will send them back.
- 6.3 The timetable and stages of the appeal leading up to the hearing are explained in section 4.
- 6.4 The rules say that the date for the hearing should be within 12 weeks of the starting date. We will arrange a convenient time and date for the hearing. If you can't accept the first date we offer, we will set another date and we will expect you to attend. We will give you and the LPA at least four weeks' notice of the hearing date.
- 6.5 We will ask the LPA to let interested persons know about it. They may also advertise it in a local newspaper if they think it's necessary.
- 6.6 At the hearing, the Inspector will lead an informal discussion on the main issues. People don't usually have a legal representative with them at hearings.

The hearing site visit

- 6.7 The Inspector will normally visit the site and will decide whether to continue the discussion at the site. They will tell you this at the hearing.
- 6.8 At the site visit you can point out physical features about the site and its surroundings. You can discuss your proposals if the Inspector agrees.

People with disabilities

- 6.9 We want to hold all hearings in buildings that give proper facilities for people with disabilities. The LPA usually choose and provide the place and we have asked them to pay particular attention to the needs of people with disabilities. If you, or anyone you know, want to go to the hearing and you have particular needs, please contact the LPA to confirm they can make proper arrangements.

See the diagram of the hearing procedure at appendix 2.

7 The inquiry procedure

- 7.1 The rules that govern appeals decided by inquiry are called the Inquiries Procedure Rules (see appendix 5 for the full title). There are two sets of rules depending on whether the Inspector or the Assembly will decide your appeal.
- 7.2 The early stages of the appeal will be as described in section 4. But there are some more things you and the LPA will have to do.
- 7.2 We hold an inquiry if you or the LPA decide that you can't rely on the written procedure and a site visit, and we have decided that a hearing is unsuitable. Sometimes we decide that an inquiry is necessary. If we do we will give you reasons for the decision. We will do the following for all inquiry cases.
- Tell you and the LPA that there will be an inquiry. The letter will set the starting date and explain what you will have to do.
 - Set a date for the inquiry.
 - Appoint a suitable Inspector. We might have to transfer the case to another Inspector, sometimes at short notice, but we will tell you about any change.
- 7.4 We will fix the inquiry date as early as possible. We will contact you and the LPA about the arrangements. The rules say that the date of the inquiry shouldn't be more than 20 weeks after the starting date for appeals decided by Inspectors, and 22 weeks for appeals decided by the Assembly. If we can't keep to these dates, we can extend the periods. You and the LPA can normally only refuse one date before we arrange the inquiry. You are entitled to at least 28 days' notice, in writing, of the inquiry arrangements. But if the appeal is urgent, or if a cancellation releases an early date, we might ask you to accept less notice.

Exchanging written statements

- 7.5 You and the LPA must send us two copies of the case (together with any documents and plans) you each intend to make at the inquiry. We must receive these within six weeks of the starting date. The statement, accompanying documents and plans will be available for the public to look at. The LPA statement will include any instructions from the highway authority, and will say whether any government department or local authority has comments on the proposal.
- 7.6 We will send a copy of the LPA's statement to you and a copy of your statement to them. We will also send you and the LPA a copy of any comments from interested persons and anyone else who has a right to comment. You and the LPA can make written comments on these.
- 7.7 If you, or any of your witnesses, have a statement that is going to be read out at the inquiry (a 'written statement of evidence'), we must receive two copies

at least four weeks before the inquiry. The LPA must do the same. We will send a copy of your written statement of evidence to the LPA and a copy of theirs to you. If the statement is more than 1,500 words long there should also be a summary. The summary should reflect the content of the written statement of evidence and should not introduce new evidence. Where a summary is provided, usually only that will be read at the inquiry.

Statement of common ground

- 7.8 You must discuss all the points about your appeal that you and the LPA agree, for example, the site, area, plans and so on. At least four weeks before the inquiry date you must send us a written copy of what you have both agreed. This is called a ‘statement of common ground’. The inspector may question the information in the statement.

Advertising the inquiry

- 7.9 We will send you a notice that gives the details of the inquiry arrangements. You must put it up on the site before the inquiry takes place. If it isn’t your land, we will ask the LPA to put up the notice somewhere people can easily see it near the site. We will also ask the LPA to tell the local papers and anyone else who may be interested or affected by the proposals.

At the inquiry

- 7.10 The Inspector will start by introducing him or herself, announce the subject of the inquiry and ask for the names of all those who wish to speak. The Inspector will then normally explain the procedure.
- 7.11 Everyone who takes part in the inquiry must follow the same rules. This is to make sure that the procedure is fair to everyone. The Inspector will make sure that he or she has all the information needed to decide the appeal.
- 7.12 The LPA will usually present their case first, then call any witnesses. You and the Inspector can ask questions. You will then present your case in the same way, and the LPA and the Inspector can ask you and your witnesses any questions they have.
- 7.13 If you don’t own all the appeal site, the other owners can also speak and question the witnesses. After this, other interested persons – for example, neighbours or representatives of local amenity societies – will usually have a chance to put their point of view. The Inspector may allow them to be questioned or to question you, and will make sure that you, and the LPA, have seen any letters from interested persons or groups who can’t be there in person. You, and the LPA, have the right to make a closing statement. You will usually speak last. This allows you to tell the Inspector about the important points that have come up during the questions. But you can’t introduce new arguments.

- 7.14 Anyone involved can use a lawyer or other person to put their case. The Inspector will treat all arguments the same, whoever puts them, and will make sure that the appeal is conducted and reported fairly.

Representatives of public bodies

- 7.15 If an Assembly department or another local authority has told or asked the LPA not to give planning permission, or to put conditions on it, and the LPA has agreed, you can ask us to arrange for the organisation concerned to send a representative to the inquiry. You must do this, in writing, at least 14 days before the inquiry is due to start. You can question or cross-examine the representative about their evidence.
- 7.16 If your proposal involves the development of agricultural land, the LPA may need technical help from the Assembly's Agriculture Department. If so, they should send us a copy of the Agriculture Department's report on the agricultural aspects of the case. We can also ask the Agriculture Department for a report. In this case we will send you a copy. If you or the LPA want to question a representative from the Assembly's Agriculture Department, you can ask us to arrange it. They don't have to send a representative to every appeal involving agricultural land. But they do if their report is quoted in the LPA statement and has influenced the decision.
- 7.17 If your proposal involves storing dangerous materials, or if the site is near to where dangerous materials are stored, the Health and Safety Executive may have made a report to the LPA. Once again, they should send someone to answer questions if we ask them to.
- 7.18 The LPA can use representatives of Assembly departments and other public bodies as witnesses. They can be questioned or cross-examined.

The inquiry site visit

- 7.19 The Inspector will usually visit the appeal site and surroundings alone, before the inquiry starts. Both you and the LPA can ask the Inspector to visit the site during the inquiry, or after the inquiry has finished, and to be there or represented. During the site visit, the Inspector will ask you and the LPA if there is anything about the appeal site that you want to point out. But you can't say anything about the appeal proposals.

Late comments

- 7.20 The Inspector will only consider any evidence we receive after the inquiry has closed in extraordinary circumstances.

People with disabilities

- 7.21 We want to hold all inquiries in buildings that give proper facilities for people with disabilities. The LPA usually choose and provide the place and we have asked them to pay particular attention to the needs of people with disabilities.

If you, or anyone you know, want to go to the inquiry and you have particular needs, please contact the LPA to confirm they can make proper arrangements.

Meetings before an inquiry

- 7.22 Sometimes, if a lot of people want to go to the inquiry or the appeal is complicated, we will arrange a meeting before the inquiry (a pre-inquiry meeting). We will tell you if we decide to do this, and will explain what the meeting will cover. We normally arrange this type of meeting if we think the inquiry will last for more than 5-7 days.
- 7.23 This type of meeting will only deal with things like the order in which you, the LPA and any other people will present their evidence. You cannot discuss your appeal representations at this meeting.

See the diagram of the inquiry procedure at appendix 3.

8 Appeal costs awards

- 8.1 You and the LPA normally have to pay your own expenses for your appeal, whether we decide it by the written procedure, a hearing or an inquiry.
- 8.2 If the appeal is to be decided by a hearing or an inquiry, you can ask the Assembly or the Inspector to order the LPA to pay all or some of your costs. The LPA can also ask for you to pay some or all of their costs.
- 8.3 The Assembly or the Inspector will only do this if the person applying can show that the other side behaved unreasonably, and put them to unnecessary or wasted expense.
- 8.4 If we are to decide your appeal by a hearing or inquiry, we will send you our separate guide 'Costs awards in planning appeals'. It is important that you read this guide because it explains how, when and why you can make an application or have an application made against you.

9 The decision

The Inspector's decision

- 9.1 We will send you a copy of the Inspector's decision. It will usually identify the important planning issues and explain why the Inspector has come to the decision.
- 9.2 We will also send a copy of the decision to the LPA and anyone else who is entitled to a copy or who asked for one.

Decision by the Assembly

- 9.3 The Inspector will send a report to the Assembly. The Inspector's report will include conclusions on the issues raised and a recommendation as to whether or not the appeal should be allowed.
- 9.4 The Assembly doesn't have to accept the Inspector's recommendation and will consider everything that is relevant. Sometimes the Assembly disagrees with the Inspector's recommendation. This may be because it takes into account new evidence introduced after the inquiry, or because it differs with one of the Inspector's findings. In these cases you and the LPA will have a chance to comment before the decision is made. If it is necessary, we may re-open the inquiry. Someone appointed by the Assembly will sign the letter telling you the decision.
- 9.5 The Assembly will send a copy of the decision letter and the Inspector's report to the LPA and anyone else who is entitled to a copy or who asked for one.

10 Complaints and challenges

Complaints about us

- 10.1 If you have any complaints or questions about the decision, or the way we have handled the appeal, please write to:

The Complaints Officer
The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Phone: 029 2082 3889

Fax: 029 2082 5150

E-mail: wales@planning-inspectorate.gsi.gov.uk

- 10.2 We will investigate your complaint and you can expect a full reply within three weeks. However, we can't reconsider an appeal if we have already given the decision on it. The only time we will reconsider an appeal is if you successfully challenge the decision in the High Court.

The High Court

An appeal decision can only be challenged on legal grounds in the High Court. To be successful, you would have to show that:

- the Inspector, or the Assembly, had gone beyond their powers; or
- we didn't follow the proper procedures and so damaged your interests.

If your challenge is successful, the High Court will overturn the original appeal decision and return the case to us, and we will look at it again. This doesn't necessarily mean that the original decision will be reversed. The Inspector may come to the same decision, but for different reasons.

If you decide to challenge the appeal decision, you must apply to the High Court within six weeks of the date of the appeal decision. When we send you the appeal decision, we will send you a leaflet explaining your right to challenge it.

The Welsh Administration Ombudsman

- 10.6 If you think that we haven't treated you fairly, you can ask the Ombudsman to investigate. The Ombudsman has no power to question the merits of your appeal or to alter the decision. He or she is only concerned with the way we deal with and administer appeals. The Ombudsman will usually expect you to have made a complaint to us first before he or she investigates your case.

The Council on Tribunals

- 10.7 If you feel that there was something wrong with the basic procedure we used for your appeal, you can complain to the Council on Tribunals at:

22 Kingsway
London
WC2B 6LE.

The council will take up your complaint if they think it concerns them. Like the Ombudsman, they aren't concerned with the merits of your appeal and have no power to alter the decision.

The Local Government Ombudsman

- 10.8 If you have a complaint about the way the LPA dealt with your planning application, you can, in some cases, ask the Local Government Ombudsman to investigate. However, the Local Government Ombudsman can't investigate a complaint about a planning decision just because you and the LPA don't agree about it and the Ombudsman has no power to alter the decision. You can get a booklet explaining how to make a complaint by writing to the appropriate Local Government Ombudsman's office at:

Public Services Ombudsman for Wales
1 Ffordd Yr Hen Gae
Pencoed
CF35 5LJ

Phone 01656 641 150

Website : www.ombudsman-wales.org.uk

Appendix 1

The written procedure

Timetable	You	LPA	Interested persons
Appeal made (within the 6-month time limit) We set a starting date	You send your appeal form and all supporting documents to us and the LPA. Your grounds of appeal should make up your full case.	If they don't want the written procedure, we will tell you and arrange a hearing or inquiry.	
Within 2 weeks from the starting date	You receive from the LPA a filled-in questionnaire and any supporting documents.	The LPA send you and us a filled-in questionnaire and supporting documents. They also write to interested persons about the appeal.	Interested persons receive the LPA's letter about the appeal.
Within 6 weeks from the starting date (see the note below)	You send us 2 copies of any further statement. This should relate only to issues raised by the questionnaire and any supporting documents.	The LPA send us 2 copies of any further statement.	Interested persons send us any comments.
Within 9 weeks from the starting date (see the note below)	You send us 2 copies of your final comments on the LPA's statement and on any comments from interested persons. No new evidence is allowed.	The LPA send us 2 copies of their final comments on your statement and on any comments from interested persons. No new evidence is allowed.	

Note: We send copies of statements and comments to you and the LPA by first-class post. We aim to do this within a week of the deadlines. **We will not normally accept late comments. Instead, we will return them to you.**

Decision: After the site visit, the Inspector writes the decision or sends a report to the Assembly. Where the Inspector decides the appeals we will send a copy of the decision notice to the appellant, the LPA and anyone else who asks us for a copy.

Appendix 2

The hearing procedure

Timetable	You	LPA	Interested persons
Appeal made (within the 6-month time limit) We set a starting date	You send your appeal form and all supporting documents to us and the LPA.	They let us know if they don't think a hearing suitable.	
Within 2 weeks from the starting date	You receive from the LPA a filled-in questionnaire and any supporting documents.	The LPA send you and us a filled-in questionnaire and supporting documents. They write to interested persons about the appeal.	Interested persons receive the LPA's letter about the appeal.
Within 6 weeks from the starting date (see the note below)	You send us 2 copies of your hearing statement.	The LPA send us 2 copies of their hearing statement.	Interested persons send us any comments.
Within 9 weeks from the starting date (see the note below)	You send us 2 copies of your final comments on the LPA's statement and on any comments from interested persons. No new evidence is allowed.	The LPA send us 2 copies of their final comments on your statement and on any comments from interested persons. No new evidence is allowed. They tell interested persons about the arrangements. They may put a notice in a local paper about the hearing 2 weeks before the date.	Interested persons are told about the hearing by the LPA. They may attend the hearing and, if the Inspector agrees, give their views.

Note: We send copies of statements and comments to you and the LPA by first-class post. We aim to do this within a week of the deadlines. **We will not normally accept late comments. Instead, we will return them to you.**

Decision: After the hearing, the Inspector writes the decision or sends a report to the Assembly. Where the Inspector decides the appeals we will send a copy of the decision notice to the appellant, the LPA and anyone else who asks us for a copy.

Appendix 3

The inquiry procedure

Timetable	You	LPA	Interested persons
Appeal made (within the 6-month time limit) We set a starting date	You send your appeal form and all supporting documents to us and the LPA.	The LPA receive the appeal documents.	
Within 2 weeks from the starting date	You receive from the LPA a filled-in questionnaire and any supporting documents.	The LPA send you and us a filled-in questionnaire and supporting documents. They write to interested persons about the appeal.	Interested persons receive the LPA's letter about the appeal.
Within 6 weeks from the starting date (see the note below) (We will not normally accept late statements. Instead, we will return them to you.)	You send us 2 copies of your inquiry statement.	The LPA send us 2 copies of their inquiry statement.	Interested persons send us any comments.
Within 9 weeks from the starting date (see the note below) (We will not normally accept late comments. Instead, we will return them to you.)	You send us 2 copies of your final comments on the LPA's statement and on any comments from interested persons. No new evidence is allowed.	The LPA send us 2 copies of their final comments on your statement and on any comments from interested persons. No new evidence is allowed.	
4 weeks before the inquiry (see the note below) (We will not normally accept late written statements of evidence. Instead, we will return them to you.)	You send us 2 copies of your written statements of evidence and 1 copy of the statement of common ground.	The LPA send us 2 copies of their written statement of evidence. The LPA put a notice in a local paper about the inquiry and tell interested persons.	Interested persons are told about the inquiry by the LPA. They may attend the inquiry and, if the Inspector agrees, give their views.

Note: We send copies of statements, comments and written statement of evidence to you and the LPA by first-class post. We aim to do this within a week of the deadlines. **We will not normally accept late comments. Instead, we will return them to you.**

Decision: After the inquiry, the Inspector writes the decision or sends a report to the Assembly. Where the Inspector decides the appeals we will send a copy of the decision notice to the appellant, the LPA and anyone else who asks us for a copy.

Appendix 4

Listed Buildings and Conservation Area Consent Appeals

You must apply for listed building consent if:

- you want to knock down all or part of a listed building (that is, a building that is on the list of buildings of special architectural or historic interest approved by the Assembly); or
- you want to alter or extend a listed building in a way that would affect its character.

You must apply for conservation area consent if:

- you want to knock down a building that isn't listed, but is in a conservation area, unless the Assembly has said that the building doesn't need conservation area consent. The LPA will give you more information about this.

In Wales you can appeal to the Assembly if the LPA:

- doesn't give permission;
- gives permission, but with conditions which you think are inappropriate or unreasonable; or
- doesn't give you a decision on your application within the time period laid down (normally eight weeks).

Most of the advice in this booklet also applies to listed building consent and conservation area consent appeals. However, you should bear in mind the following points:

- When you ask for appeal forms, tell us whether your appeal is about listed building or conservation area consent, as the forms are different from those used in planning appeals.
- Appeals are decided by an Inspector or the Assembly, depending on the proposal and the grade of the listed building involved.
- The Inspector or the Assembly will usually decide to keep listed buildings as they are, unless there is a strong case to knock them down or alter them.
- There will probably need to be a local inquiry if you want to knock down a listed building.

In your grounds of appeal, you should pay particular attention to the following:

Knocking down a listed building

- How important is the building, by itself and in relation to other buildings?
- What condition is it in? What is the cost of maintaining or repairing it?
- How important is an alternative use for the site or the building?

Altering a listed building

- Will the proposal keep as much as possible of the special interest of the building?

Extending a listed building

- Is the extension in sympathy with the listed building? The scale of the extension, the materials and design are also important considerations.

Knocking down a building that isn't listed, but is in a conservation area

- What condition is it in? What is the cost of maintaining or repairing it?
- How important is an alternative use for the site or the building?
- What is the likely effect on the character and appearance of the building or the conservation area?
- What are the proposals for redeveloping the site?

Appendix 5

Some Relevant Publications

You can buy copies of all these documents from HMSO Bookshop or any other bookshop, or you may be able to see them at the LPA offices, your local library or on the HMSO website at www.HMSO.gov.uk.

Statutory provisions

The Town and Country Planning Act 1990

This contains the main rules that govern the planning control system. Part III - 'Control over Development' - is to do with applications for planning permission and the Assembly's powers. Schedule 6 talks about the appeal decision process.

The Planning and Compensation Act 1991

This says that costs can sometimes be awarded if we arrange an inquiry or hearing which doesn't take place.

The Planning (Listed Buildings and Conservation Areas) Act 1990

This contains the main rules about consent applications and appeals for listed buildings and conservation areas.

The Town and Country Planning (General Permitted Development) Order 1995 (SI 1995 No 418)

This tells you the types of development which you don't need planning permission for.

The Town and Country Planning (General Development Procedure) Order 1995 (SI 1995 No 419 - as amended by SI No 1627)

This explains in detail the procedures the LPA will follow when they consider your application.

The Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997 (SI 1997 No 420)

These give Inspectors the power to decide most appeals under section 78 of the 1990 Act and most appeals relating to listed building consent (LBC) and conservation area consent (CAC). But the Assembly still has the power to decide any appeal.

The Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003 (SI No 2003/390) (W52)

These explain the procedures and time limits for the various stages of the written appeals procedure.

**The Town and Country Planning (Hearings Procedure) (Wales)
Rules 2003 (SI No 2003/1271)**

These explain the procedures and time limits for the various stages of appeals decided by hearings. They explain the rights and responsibilities of everyone involved in an appeal that is dealt with by a hearing.

**The Town and Country Planning (Inquiries Procedure) (Wales)
Rules 2003 (SI No 2003/1266)**

**The Town and Country Planning Appeals (Determination by Inspectors)
(Inquiries Procedure) (Wales) Rules 2003 (SI No 2003/1267)**

These explain the procedures and time limits for the various stages of appeals decided by an inquiry. They explain the rights and responsibilities of everyone involved in an appeal that is dealt with by an inquiry.

**The Planning (Listed Buildings and Conservation Areas) Regulations 1990 (SI
No 1519)**

These set out special rules for applications and appeals about consent for listed buildings and conservation areas.

Circulars

Here is a brief list of some relevant Welsh Office Circulars. You might be able to get copies from your local library or you can look at them in council offices.

29/95 General Development Order Consolidation 1995

This sets out the procedure for making planning applications and appeals, planning registers and related matters.

60/96 Planning and the Historic Environment: Archaeology

1/98 Planning and the Historic Environment; Directions by the Secretary of State for Wales.

These set out Directions by the Assembly.

11/99 Environmental Impact Assessment

This gives advice about the circumstances in which we will need to assess the environmental effects of a proposal. It also describes how we will carry out this assessment.

07/2003 Planning Appeals Procedures

This sets out best practice in the operation of procedures for deciding planning appeals under section 78 of the Town and Country Planning Act 1990.

Planning policy guidance

In Wales, policy guidance is contained in Planning Policy Wales (PPW) and Technical Advice Notes (TANs).

These are also available on the Assembly website (www.wales.gov.uk)

- TAN(W) 1 Joint Housing Land Availability**
- TAN(W) 2 Planning and Affordable Housing**
- TAN(W) 3 Simplified Planning Zone**
- TAN(W) 4 Retailing and Town Centres**
- TAN(W) 5 Nature Conservation and Planning**
- TAN(W) 6 Development involving Agricultural Land**
- TAN(W) 7 Outdoor Advertisement Control**
- TAN(W) 8 Renewable Energy**
- TAN(W) 9 Enforcement of Planning Control**
- TAN(W) 10 Tree Preservation Orders**
- TAN(W) 11 Noise**
- TAN(W) 12 Design**
- TAN(W) 13 Tourism**
- TAN(W) 14 Coastal Planning**
- TAN(W) 15 Development and Flood Risk**
- TAN(W) 16 Sport and Recreation**
- TAN(W) 17 Environmental Assessment**
- TAN(W) 18 Transport**
- TAN(W) 19 Telecommunications**

Appendix 6

Inspector's Code of Conduct – the principles by which Inspectors* work

**Although these principles are primarily directed to Planning Inspectors they apply with equal force to all decision-makers in the Planning Inspectorate.*

1. Inspectors make their decisions and recommendations in the public interest.
2. Inspectors do not pre-judge a case.
3. Inspectors are not involved in cases where they have a pecuniary interest or a personal interest that may give rise to a reasonable perception of bias.
4. Inspectors are not influenced by irrelevant considerations or outside influences when making their decisions and recommendations.
5. Inspectors refuse all gifts, hospitality and other benefits offered by parties having an interest in a case.
6. Inspectors conduct cases as expeditiously as possible.
7. Inspectors treat each person who appears before them with dignity and respect.
8. Inspectors do not discriminate on the grounds of race, sex, sexual orientation, marital status, religion, disability, and age, or otherwise.
9. Inspectors avoid unnecessary delay in reaching their decisions and recommendations.
10. Inspectors give reasons for their decisions and recommendations.
11. Inspectors keep their professional knowledge and skills up to date.
12. Inspectors are accountable for their decisions and recommendations and submit themselves to whatever scrutiny is appropriate.

Appendix 7

Data Protection and Privacy in the Planning Inspectorate

Introduction

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 Assembly) receives a variety of personal information. This information comes from a number of sources including:

- the original application, together with any documents of support or objection;
- the appeal form together with any further 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. These notes set out what information we collect and how it will be used.

Data Protection

We have 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 purposes of dealing with and considering the relevant planning appeal;
- only hold your personal information for as long as is reasonably necessary. For completed appeals this is usually 12 months, although 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 the council's offices and anyone can view 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 appeal documents will not normally be refused.

In addition, when the electronic Planning Portal is available, the majority of personal information received will be placed on the Casework web site [www.planningportal.gov.uk] 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 collect?

When dealing with an appeal we could receive personal information about you from a number of parties, including:

- local planning authorities;
- yourself;
- other parties interested in the appeal.

The information we receive is varied but often includes:

- details of your name, address and occupation;
- information as to your health;
- information relating to your opinions or intentions in respect of a planning application/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 First Secretary of State at the Office of the Deputy Prime Minister.

Your Rights to Access Personal Data

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 or proof of your identity will be required. 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:

Alastair Grant
Data Manager
The Planning Inspectorate
Room 3/16 Eagle Wing
Temple Quay House
2, The Square,
Temple Quay
Bristol BS1 6PN

Telephone: 0117 372 8922

Email: alastair.grant@planning-inspectorate.gsi.gov.uk

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”.

Dispute

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
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Switchboard: 01625 545 700

Fax: 01625 524 510

DX: 20819 Wilmslow

Website: <http://www.dataprotection.gov.uk/>

E-mail: mail@dataprotection.gov.uk

For appeals and enquiries in England

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Helpline: 0117 372 6372

Planning Aid Wales

If you would like help in taking part in a planning appeal, you can contact Planning Aid Wales. Planning Aid Wales provides a free and independent advice service on town and country planning issues to people and groups in appropriate circumstances and they may be able to help you. Write to:

Planning Aid Wales
1 Bay Chambers
West Bute Street
Cardiff
CF10 4BB

Phone 029 2048 5765

Website : <http://wales.rtpi.org.uk/planaid/>