

Planning: Appeals

Written Ministerial Statement

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The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Andrews): My honourable friend the Parliamentary Under-Secretary of State (Iain Wright) has made the following Written Ministerial Statement.

The planning White Paper *Planning for a Sustainable Future* published in May 2007 with the accompanying consultation paper *Improving the Appeal Process in the Planning System*, signalled the Government's intention to improve the planning appeals service to make it more proportionate, customer-focused and efficient, while maintaining the principles of fairness, openness and impartiality. Measures to achieve this were included in the Planning Act 2008¹ and in regulations which are being laid before Parliament² today. This Statement sets out the Government's policies on how the new regime should operate.

Section 196 of the Planning Act 2008 amended the Town and Country Planning Act 1990 to give the Secretary of State the power to determine the procedure by which appeals will be dealt with; on the basis of representations in writing, at a hearing or at a local inquiry. This power will commence in relation to planning and enforcement appeals on 6 April 2009. The principal parties to an appeal, being the appellant and the local planning authority, will have the opportunity to put forward their views on their preferred procedure. Final decisions will take account of any representations from these parties and will have reference to published criteria, which are approved by the Secretary of State and will be kept under review. The criteria are published on the Planning Inspectorate's website. Appeals on householder applications that are deemed suitable for written representations will normally proceed through an expedited procedure, designed to give a decision within eight weeks. The aim in all cases is to use the most appropriate procedure consistent with the complexity of the case without any loss of quality in the decision-making process.

The Government have asked the Advisory Panel on Standards (APOS) to continue to review the performance of the Planning Inspectorate. It will monitor the operation of the new regime and, in particular, will investigate any case of complaint about the application of criteria to the choice of appeal method. The Secretary of State will take account of advice from APOS when conducting an annual review of these criteria.

¹ Section 184—Correction of errors in decisions, Section 196—Determination of certain proceedings and Schedule 10. (See also The Planning Act 2008 (Commencement No. 1 and Savings) Order 2009 (2009 No. 400 (C. 22))

² The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (2009/452), The Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2009 (2009/453), The Town and Country Planning (Determination of Appeal Procedure) (Prescribed Period) (England) Regulations 2009 (2009/454), The Town and Country Planning (Hearings & Inquiries Procedures) (England) (Amendment) Rules 2009 (2009/455)

The Secretary of State's ability to deliver timely and high-quality decisions on planning and enforcement appeals will rely on all parties observing good practice. In anticipation of the possibility of appeal, local planning authorities should ensure that their reasons for a decision are clear, precise and comprehensive, especially when the decision taken by elected members differs from that recommended by their officers. When refusing an application, local planning authorities should consider carefully whether they have a sufficiently strong case, capable of being argued at appeal, on the basis of the material before them.

Appellants should also ensure that their grounds of appeal are clear, precise and comprehensive and relate to the scheme as refused at application stage, without substantial changes which could lead to any party being prejudiced. Applicants should not normally proceed to appeal unless all efforts to negotiate a solution with the local planning authority, including through amending their proposals, have been exhausted. They should be confident at the time of appeal that they have a clear case and do not need to commission further evidence.

Once an appeal is accepted and validated by the Planning Inspectorate, it is crucial that all parties adhere to the statutory deadlines at each stage. Parties should also maintain a regular and continuing dialogue to ensure that the issues can be clearly established between them, with no last-minute surprises arising.

Following consultation, the costs awards circular, *Costs awards in appeals and other planning proceedings*, will shortly be reissued and will be available on the Communities and Local Government website. It is important that all parties use the costs regime properly to regulate the system and to ensure that all who use it do not act unreasonably and lead others to incur unnecessary expense. The Secretary of State will be able to award costs in all cases when requested to do so by one or more of the parties, including those dealt with through written representations. Each case will be assessed on its merits.

The Planning Inspectorate is issuing more detailed guidance on the conduct of the appeal process, to assist parties in appeal cases. This guidance is endorsed by the Secretary of State and will provide a reference point for planning inspectors when determining appeal cases.