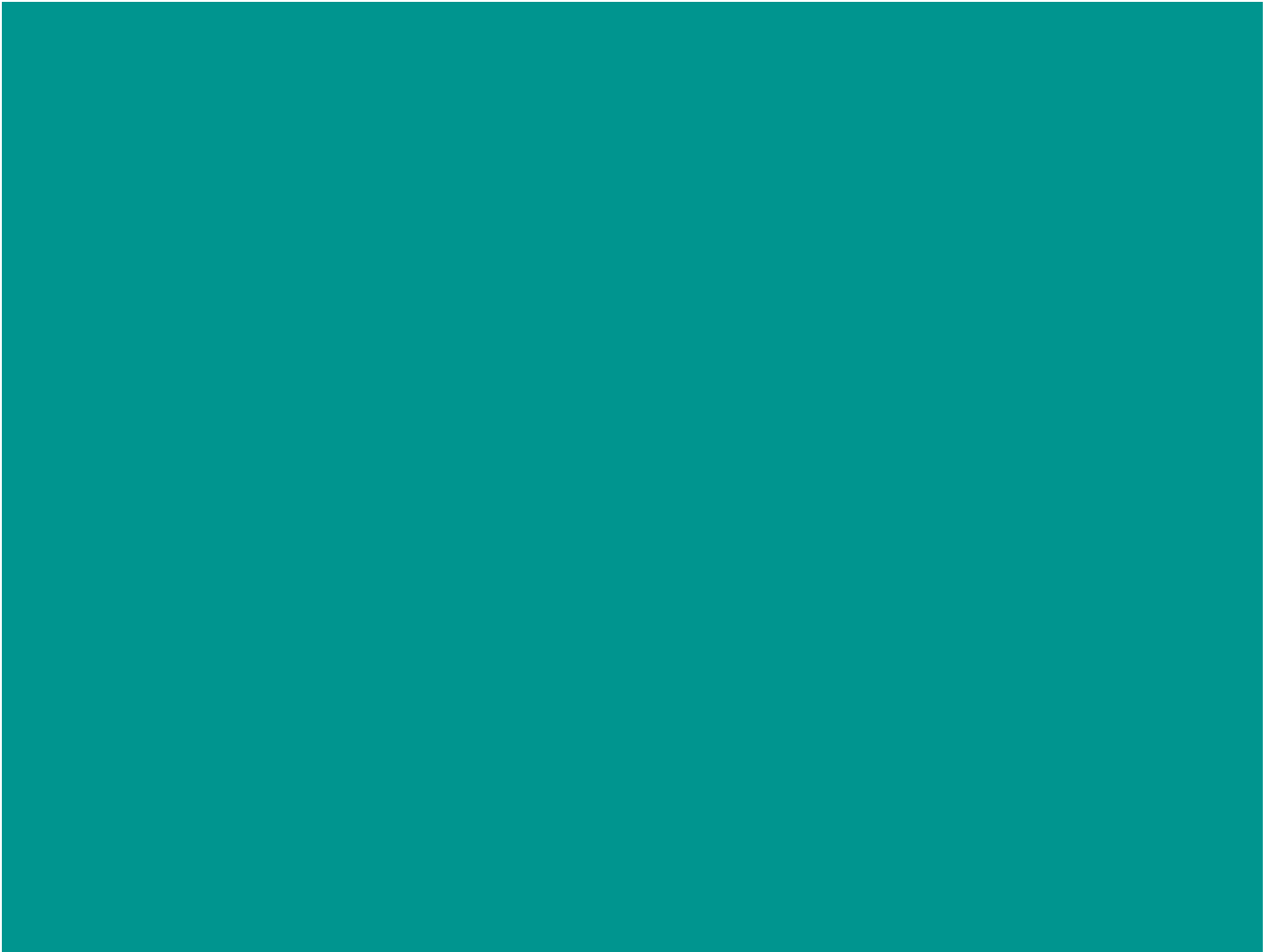




The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Called-In Applications



1. Background

- 1.1. Development proposals are generally best determined locally by planning authorities which know their area, its needs and sensitivities. The Welsh Ministers do not interfere with local planning authorities' jurisdiction unless it is necessary to do so. Certain types of application⁴⁰, however, must be made, referred or notified to the Welsh Ministers.
- 1.2. Although thousands of applications are made each year, the Welsh Ministers only use the 'call-in' powers selectively⁴¹. Applications are only 'called-in' for determination by the Welsh Ministers if there are planning issues of more than local importance⁴².
- 1.3. Any person can ask for an application to be called-in. They may do so by contacting the Planning Division of the Welsh Government⁴³ giving clear reasons why they think that the application should be called-in, including why it is of more than local importance.
- 1.4. Additionally, Local Authorities are required, in accordance with the provisions of the Notification Directions⁴⁴, to refer applications which they do not propose to refuse for the following categories of development:
 - Flood Risk Area Development, incorporating emergency services or highly vulnerable development (10 or more dwellings for residential schemes), where the entire site is within flood zone C2;
 - Significant Residential Development – residential development of more than 150 units or residential development on more than 6 hectares of land, not in accordance with the provisions of the development plan in force in the area;
 - Minerals Development – development consisting of or including the winning and working of minerals on new sites or extensions to existing sites, not in accordance with the provisions of the development plan in force in the area;
 - Waste Development – development which is intended for use wholly or mainly for the deposit of waste into or on to land, not in accordance with the provisions of the development plan in force in the area;
 - Aggregates Development in National Parks and Areas of Outstanding Natural Beauty – development involving the

⁴⁰ Hazardous Substances Consent Applications under section 20 of the Planning (Hazardous Substances) Act 1990, Listed Building Consent.

⁴¹ Section 77 of the Town and Country Planning Act 1990 (as amended).

⁴² Paragraph 3.7.3 of Planning Policy Wales Edition 9 – November 2016 (<http://gov.wales/topics/planning/policy/ppw/?lang=en>).

⁴³ Planning Directorate, Welsh Government, Cathays Park, Cardiff, CF10 3NQ. planning.division@wales.gsi.gov.uk.

⁴⁴ The Town and Country Planning (Notification) (Wales) Direction 2012.

extraction of aggregates on new sites or extensions to existing sites in these statutorily designated areas;

- Unconventional Oil and Gas Development – development involving the onshore exploration, appraisal or production of coal bed methane or shale oil or gas using unconventional extraction techniques, including hydraulic fracturing (but does not include the making of exploratory boreholes which do not involve the carrying out of such unconventional extraction techniques);
- Underground Coal Gasification – development connected to the gasification of coal in the strata (but does not include the drilling of boreholes solely for the purpose of core sampling).

1.5. When the Welsh Ministers call-in an application, they issue their direction in a letter to the Local Authority. This is known as the 'call-in letter' which is issued by the Planning Division of the Welsh Government. The letter requires the Authority to serve notice of the terms and reasons for the call-in on the applicant. It also advises the Authority to send a complete copy of the original planning application, and essential supporting documents, to the Planning Inspectorate.

2. Environmental Impact Assessment (EIA)

2.1. Once an application has been called-in, a screening exercise needs to be undertaken to assess whether the application should be accompanied by an EIA⁴⁵. This is carried out by the Planning & Environment team of the Planning Inspectorate Wales, under the delegated powers of the Welsh Ministers, who will issue a Direction. This exercise must be completed before the timetable for the submission of evidence can begin.

2.2. If the application is already accompanied by an Environmental Statement (ES), an Inspector must assess the ES to check whether it meets the minimum requirements of the EIA Regulations⁴⁶. This process can take 8 weeks, depending on Inspector availability. The ES must contain the necessary level of information specified in the Regulations in order for the application to proceed to determination.

2.3. The Inspector's conclusions on the ES merely relate to whether it contains sufficient detail to determine the application; an overall judgement on the adequacy of the ES can only be made by the appointed Inspector after all evidence relating to the application has been considered. As such, any initial conclusions on

⁴⁵ As required by the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 or Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, depending on the date of the application.

⁴⁶ As above.

the completeness of the ES do not preclude the appointed Inspector from requesting further information at a later stage.

3. Procedure

- 3.1. Traditionally, called-in applications have followed the public local inquiry procedure. This is because they are generally for proposals of more than local importance which tend to generate high levels of public interest and require technical evidence to be tested by way of cross-examination. However, in order to make more timely decisions on planning applications, and to reduce any unnecessary costs incurred by holding hearings and inquiries, this has been reviewed.
- 3.2. Under the new regulations⁴⁷ the written representations procedure is the 'default' procedure, and the majority of cases will proceed on that basis. Neither the applicant nor Local Authority has a statutory right to be heard. However, the Inspector has the power to call topic specific hearing or inquiry sessions if he/she considers them necessary. It is possible for an application to proceed by all 3 procedures.

4. Full Statements of Case

- 4.1. The applicant may submit a full statement of case within 4 weeks from the date which the Local Authority notify them that the application has been called-in by the Welsh Ministers⁴⁸. A copy of the statement of case must also be sent to the Local Planning Authority by the same date.
- 4.2. The applicant's statement of case is a statement comprising the full particulars of the case the applicant wishes to put forward in relation to the application referred to the Welsh Ministers under Section 77 of the Act⁴⁹. It must also contain any supporting documents that the applicant wishes to put forward in evidence.
- 4.3. The Local Authority may also submit a statement of case, including all supporting documents, within 4 weeks of the starting date for the application.

5. Timetable for the submission of evidence

- 5.1. Following receipt of the applicant's full statement of case, complete application file, and after the EIA Screening/ES checks have taken place, the Inspectorate will write to the applicant and Local Authority to advise them that the timetable for the submission of evidence has begun.

⁴⁷ The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017.

⁴⁸ Under the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2017.

⁴⁹ The Town and Country Planning Act 1990 (as amended)

- 5.2. Within 5 working days of the starting date the Local Authority must write to interested persons to give written notice that the application has been called-in for determination by the Welsh Ministers and to advise that further representations may be sent to the Welsh Ministers within 4 weeks of the starting date.
- 5.3. Once the 4 week period for the Authority's full statement and third party representations has passed, the documents will be uploaded to the Appeals Casework website. The applicant, Authority and interested persons can then comment on those representations within 6 weeks of the starting date.
- 5.4. The Inspector also has the power to request further information in writing from the applicant, Local Authority and interested persons who made representations within 4 weeks of the starting date. Should an Inspector request further information, it must be submitted in the time and manner specified by the Welsh Ministers. Responses must not exceed 3000 words and any that do may be returned.

6. Decision

- 6.1. Following the site visit, or the close of the hearing/inquiry, the Inspector will submit his/her report to the Welsh Ministers. The report will include the Inspector's findings and a recommendation as to whether planning permission should be granted.
- 6.2. The Welsh Ministers decide all called-in applications. Following receipt of the Inspector's report they must decide whether to accept the Inspector's recommendation, or to disagree with it. If the Ministers are minded to disagree with the Inspector's recommendation, they must not determine the application without first seeking further comments from the parties⁵⁰.
- 6.3. If new material is submitted after the report is submitted, the Welsh Ministers may direct that a hearing/inquiry re-opens to discuss the evidence.
- 6.4. The Welsh Ministers must send a copy of their decision to the applicant, Local Authority, any person who took part in the proceedings, any person who asked to be notified of the decision and anyone whom the Welsh Ministers consider it reasonable to notify.

⁵⁰ The applicant, Local Authority and any other person who made representations must be given the opportunity of making representations upon the new evidence.