Procedures
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Part 4 of the Town and Country Planning (Referrals Applications and Appeals Procedure) (Wales) Regulations 2017

1. What is the process?

1.1. Under the Part 4 written representations procedure, the Inspector will decide the appeal on the basis of written representations, a hearing, an inquiry or a combination of procedures. A timetable for the submission of evidence is at Appendix 1 and our start letters will provide dates for the receipt of representations and documents.

2. The appellant

2.1. The appellant must ensure that we receive their appeal within the time appropriate limit

2.2. For all appeals following the Part 4 written representations procedure, the appellant must send their full statement of case, a copy of the planning application form and the LPA’s decision notice with the appeal, along with the other essential supporting documents detailed on the appeal forms, to us and the LPA.

2.3. The appellant’s representations should fully disclose their case through their full statement of case. This must be submitted with the appeal.

3. Notice to interested persons

3.1 Within 5 working days of the start date the LPA/relevant authority must notify interested persons 16:

- that an appeal has been made;
- that any representations made to LPA/relevant authority in relation to the application will be sent to the Planning Inspectorate and the appellant and will be considered by the Inspector when deciding the appeal;
- how they can withdraw their earlier representations if they wish to do so;
- that further written representations may be sent to the Planning Inspectorate within 4 weeks of the start date (and give the address and email address to which any further representation should be sent); and

16 Interested persons” being (a) any person notified or consulted in accordance with the Act or a development order about the application; and (b) any other person who made representations to the LPA about that application - Regulation 3 of Town and Country Planning (Referrals Applications and Appeals Procedure) (Wales) Regulations 2017.
• that the decision will be published on the Appeals Casework Portal\(^\text{17}\),

4. The appeal questionnaire

4.1. The LPA/relevant authority must send a completed copy of our questionnaire and copies of all of the relevant documents to us and to the appellant within 5 working days of the start date of the appeal. The LPA/relevant authority must indicate on the questionnaire, which appeal procedure it considers appropriate.

4.2. The relevant background documents should be sufficient to present the LPA/relevant authority’s case. The LPA/relevant authority should notify us and the appellant if it decides to treat the questionnaire, and supporting documents, as its full representations on an appeal.

5. LPA/relevant authority representations at the 4 week stage

5.1. The appellant must rely on their full statement of case and the documents accompanying it as their representations on their appeal.

5.2. If the LPA/relevant authority decides it needs to make further representations, it should send these to us within 4 weeks of the start date. These should not normally include new evidence or additional technical data. We will copy these further representations to the other party.

5.3. However, if the appellant or LPA/relevant authority has provided new or revised evidence as part of their evidence for the appeals, and it has only recently been prepared and was not considered at application stage, interested persons will be invited to comment on the contents of the new evidence.\(^\text{18}\)

6. Interested persons’ representations at the 4 week stage

6.1. Interested persons notified of the appeal can rely on the representations they made to the LPA/relevant authority at the application stage, as it will forward these to us and the representations will be taken into account by the Inspector.

6.2. If having considered the appellant’s full statement of case an interested person wishes to make representations or further representations they can do so online through the Appeals Casework Portal, or send them by email or in writing to us. They should ensure that we receive them within 4 weeks of the start

\(^{17}\) Apart from the exceptions listed in 6.6 of the Procedure Guide introduction.

\(^{18}\) Ashley v SSCLG & Greenwich LBC & Taylor Wimpey judgement
date. We will copy any representations received, to the appellant and the LPA and publish them on the Appeals Casework Portal.

7. Comments at the 6 week stage

7.1. If either the appellant, the LPA/relevant authority or any interested person wishes to comment on any representations made at the 4 week stage, they must send their comments to us within 6 weeks of the start date. These comments should not introduce new material or technical evidence. We will copy the comments to the other parties who have submitted comments.

8. Is the appeal site visited?

8.1. Visits to the appeal site and any relevant neighbouring land or properties are normally carried out where it is necessary to assess the impact of a development on its surroundings. The purpose of the visit is solely for the site and its surroundings to be viewed.

8.2. Where the site is sufficiently visible from the road or public viewpoint the visit will be carried out unaccompanied.

8.3. If access to the site is required, we will contact the appellant/agent with a date and usually a ‘time slot’ when the Inspector will carry out the site visit. Similar arrangements will be made with individual neighbours where it is considered to be necessary to view the site from their property.

8.4. Except in the case of an accompanied site visit (see paragraph 8.7), if the appellant’s or agent’s presence is required at the appeal site, it will be required solely to provide access to the site and neither the LPA/relevant authority nor interested people will attend the site visit.

8.5. Where, during an unaccompanied site visit, the Inspector decides that he or she needs to access the site, he or she may approach the occupiers to gain permission/access.

8.6. Where the Inspector decides that he or she needs to view the site from a neighbour’s property; he or she may approach the occupiers to gain permission/access.

8.7. In some circumstances we may deem it necessary for the Inspector to be accompanied by both the appellant (or agent) and a representative of the LPA/relevant authority, and, where appropriate, interested people. This is most likely to be the case.

19 Apart from the exceptions listed in 6.6 of the Procedure Guide introduction.
where site measurements are in dispute or where it is anticipated that those present will need to point out physical features that they have referred to in their written evidence.

8.8. A site visit is not an opportunity for anyone present to discuss the merits of the appeal or the written evidence they may have previously provided. The Inspector will therefore not allow any discussion about the case with anyone at a site visit, except that if it is an accompanied site visit (referred to in paragraph 8.7 above) the Inspector or his/her representative may ask the invited parties to point out physical features that they have referred to in their written evidence.

9. **Hearings and inquiries**

9.1. Before making an appeal the appellant should consider which procedure is most appropriate according to the criteria at Appendix 2.

9.2. The appellant should allow 6 weeks from the starting date for us to confirm the procedure; dates for the event will be arranged as soon as practicable.

9.3. A date for the hearing/inquiry is offered to the LPA/relevant authority as they are responsible for providing the venue. Once a response has been received from the LPA/relevant authority confirming the venue, the date is offered to the appellant.

9.4. Each party has only one refusal of a Hearing/Inquiry date, before we set a date, time and place for the Hearing/Inquiry. If a party cannot accept the date offered, they may agree a reasonable alternative with the other party. However, as the availability of the Inspector is a crucial factor in this process, we would suggest that the party contact us in the first instance, in order that we can indicate alternative available dates for the Hearing/Inquiry.

9.5. As Inspector availability can change quickly, we will let the parties know whether we can supply an Inspector for any date agreed between themselves, but this date must meet with our general aim of deciding appeals quickly.
Annexe 02: Appendix 01 - Timetable for the submission of evidence

<table>
<thead>
<tr>
<th>Timetable</th>
<th>Interested persons</th>
<th>Appellant</th>
<th>LPA/relevant authority</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appeal received</strong>&lt;br&gt; We set the start date and the timetable</td>
<td></td>
<td>Sends the appeal form and all supporting documents to us and the LPA/relevant authority. The appeal representations should make up their full case.</td>
<td>Receives the appeal documents.</td>
</tr>
<tr>
<td><strong>Within 5 working days of the start date</strong>&lt;br&gt;Receive the LPA/relevant authority’s letter about the appeal, telling them that they must send us any representations within 4 weeks of the start date</td>
<td>Send their representations to us.</td>
<td>Receives a completed questionnaire and any supporting documents from the LPA/relevant authority.</td>
<td>Sends the appellant and us a completed questionnaire and supporting documents. The questionnaire may also comprise the LPA/relevant authority’s representation on the appeal. The LPA also writes to interested people about the appeal.</td>
</tr>
<tr>
<td><strong>Within 4 weeks of the start date</strong>&lt;br&gt;(Only exceptionally will we accept late representations)</td>
<td>Send us their final comments on the LPA/relevant authority’s representations and/or any other interested person</td>
<td>Sends us their final comments on the LPA/relevant authority’s representations and on any representations from interested people</td>
<td>Sends us its final comments on the appellant’s representations and on any representations from interested people</td>
</tr>
<tr>
<td><strong>Within 6 weeks of the start date</strong>&lt;br&gt;Send us their final comments on the LPA/relevant authority’s final comments on the LPA/relevant authority’s representations and/or any other interested person</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Representations.</td>
<td>People. If there is one, sends us a copy of the certified planning obligation.</td>
<td>No new evidence is allowed.</td>
<td></td>
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<tr>
<td>No new evidence is allowed.</td>
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</table>

| For inquiry cases only – by no later than 4 weeks before the inquiry | Any interested persons invited to participate at the inquiry can submit a written statement of evidence and summary. | The appellant must submit a written statement of evidence and summary. | The LPA/relevant authority must submit a written statement of evidence and summary. |
Annexe 02: Appendix 2 – Procedure Criteria

Criteria for determining the most suitable procedure for planning Appeals; listed building appeals and called-in Applications
(Indicative Criteria)

The criteria for each procedure cannot be fully prescriptive or entirely determinative; they require judgement to be applied using common sense. More than one criterion may apply.

Written representations - written representations would be appropriate if:

- the planning issues raised or, in an enforcement appeal, the grounds of appeal, can be clearly understood from the appeal documents and a site inspection (if required); or
- the issues are not complex and the Inspector is not likely to need to test the evidence by questioning or to clarify any other matters; or
- in an enforcement appeal the alleged breach, and the requirements of the notice, are clear;

Hearing - a hearing would be appropriate if:

- the Inspector is likely to need to test the evidence by questioning or to clarify matters but there is no need for evidence to be tested through formal questioning by an advocate or given on oath; or
- the status or personal circumstances of the appellant are at issue; or
- the case has generated a level of local interest such as to warrant a hearing; or

1 A small number of appeals do not require a site visit and can be dealt with on the basis of the appeal documents.

2 Appeals involving Gypsy and travellers’ sites, or agricultural workers/rural enterprise dwellings will not fall within this criterion.

3 For example where detailed evidence on housing land supply needs to be tested by questioning.

4 For example, whether in Gypsy and travellers’ site appeal(s) the definition in Welsh Government document ‘Travelling to a Better Future’ and the Gypsy and Traveller Framework for Action and Delivery Plan is met, or in agricultural / rural enterprise dwelling appeals, whether the tests set out in TAN6 are satisfied.

5 Where the proposal has generated significant local interest a hearing or inquiry may need to be considered. In such circumstances the local planning authority should indicate which procedure it considers would be most appropriate taking account of the number of people likely to attend and
• it can reasonably be expected that the parties will be able to present their own cases (supported by professional witnesses if required) without the need for an advocate to represent them; or

• in an enforcement appeal, the grounds of appeal, the alleged breach, and the requirements of the notice, are relatively straightforward.

Note – Although appellants may be represented by advocates at a hearing, and can test the evidence by way of questioning, cross examination will not be permitted by the Inspector.

Inquiry - an inquiry would be appropriate if:

• there is a clearly explained need for the evidence to be tested through formal questioning by an advocate\(^6\); or

• the issues are complex\(^7\); or

• the appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing\(^8\); or

• in an enforcement appeal, evidence needs to be given on oath\(^9\); or

• in an enforcement appeal, the alleged breach, or the requirements of the notice, are unusual and particularly contentious.

Note - It is considered that the prospect of legal submissions being made is not, on its own, a reason why a case would need to be conducted by inquiry. Where a party considers that legal submissions will be required (and are considered to be complex such as to warrant being made orally), the Inspectorate requires that the matters on which submissions will be made are fully explained – including why they may require an inquiry - at the outset of the appeal or otherwise at the earliest opportunity.

\(^{6}\) This does not preclude an appellant representing themselves as an advocate.

\(^{7}\) For example where large amounts of highly technical data are likely to be provided in evidence.

\(^{8}\) Where the proposal has generated significant local interest a hearing or inquiry may need to be considered. In such circumstances the local planning authority should indicate which procedure it considers would be most appropriate taking account of the number of people likely to attend and participate at the event. We will take that advice into account in reaching the decision as to the appropriate procedure.

\(^{9}\) For example where witnesses are giving factual evidence about how long the alleged unauthorised use has been taking place.