



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Appeals under section 30 of the Countryside Rights of Way
Act 2000 in connection with the exclusion or restriction of
access to land

A guide for Interested Persons

Contents

	Page
Introduction	2
1. Who can appeal?	4
2. How do I take part?	5
3. The Procedure for dealing with appeals	7
4. The written procedure	9
5. The hearing procedure	9
6. The inquiry procedure	10
7. Costs	14
8. Complaints and Challenges	15
9. Data Protection and Privacy in PINS	17

Appeals against the decision of a relevant authority not to exclude or restrict access to land

Chapter two of the Countryside and Rights of Way Act 2000 (otherwise referred to in this booklet as **the Act**) contains measures to restrict or exclude access to areas of open country and registered common land mapped by Natural Resources Wales (NRW). In the first instance applications to restrict access to land should be made to the Relevant Authority (RA). This can be NRW, or where the land falls within a National Park, the National Park Authority.

Section 30 of the Act makes provision for an applicant to appeal to the Planning Inspectorate if the RA has decided not to act in accordance with an application to restrict or exclude access for the purposes of land management, fire or danger to the public.

In addition, where a RA has already issued a direction to exclude or restrict access following an application by an interested person, they must consult that person (or whoever has taken over their interest in the land) before revoking or varying a direction. If the interested person makes representations to the RA and the RA decides not to act in accordance with those representations, the interested person has the right to appeal.

Any appeals that are made will be decided by the Planning Inspectorate on behalf of the Welsh Ministers.

This guidance explains the procedure for those wishing to participate in appeals against the decision of the RA not to exclude or restrict access to land or where the relevant authority should have acted in accordance with the representation(s) made by the applicant, it has not done so. The information it contains was correct when it was published, but it has no legal status.

About the Planning Inspectorate

We are an agency of the Welsh Government and the Ministry of Housing, Communities & Local Government. From our office in Cardiff, we deal with appeals against the refusal of the relevant authority in Wales not to restrict or exclude access to land for the purposes of land management, fire and danger or nature conservation and heritage preservation or not to have acted in accordance with the representation(s) made by a person interested in the land. From our office in Bristol we deal with similar appeals for land in England.

The Inspectors, who judge the appeals, have a variety of backgrounds. We choose the Inspectors very carefully and train them thoroughly. They generally work from home.

1. Who can appeal?

Only people with a legal interest in the land mapped by NRW's provisional or conclusive maps as open country or registered common land can appeal. To have a legal interest in the land means that you:

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

Details of an interest in the land are provided in section 45(1) of the Act. If you are not sure whether you have an interest, you should contact a legal adviser, Citizen's Advice Bureau, or an organisation that represents land managers.

Only the applicant can appeal against refusal of the RA to act in accordance with their application. By the same token, only the person who made representations when consulted under section 27(5) – when the RA want to revoke or vary an existing direction, may appeal against the RA's refusal to act in accordance with their representations.

An appeal must be made within the ***appeal period***. This lasts for six weeks from the date a decision is made by the RA. We will not normally accept late appeals.

The appeal must be made on our standard appeal form.

2. How do I take part?

If an interested person wishes to make representations they should write direct to us. Timetables and procedures to be followed are outlined later in this document.

You should be aware that any submissions you make will be made available for inspection and copying. You should not, therefore, include personal information unless you are happy for it to be seen by others.

Any representations about restriction appeals in Wales should be sent to us at:

The Planning Inspectorate Wales
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Tel: 0303 444 5942

Email: wales@planninginspectorate.gov.uk

We welcome representations in Welsh or English

Publicity

We must publish notice of every appeal we receive to give people and organisations an opportunity to comment. The notice provides details of where members of the public can view documents relating to the appeal.

We also publish scanned versions of the appeal documents on our website. This includes the appellants appeal form and supporting documents, the RA's questionnaire, representations from the appellant, RA and interested persons at the six week stage and further representations from the appellant and RA at the nine week stage.

We must notify the access authority for the area, the local access forum and anyone who has commented to the RA about the original application. They will have an opportunity to comment further on the representations that they made at application stage. They will also be told where they can see documents relating to the appeal.

There will be an opportunity for the appellant and RA to comment on any representations from interested persons. The Inspector will

consider these and those of the interested persons, before coming to a decision, provided that they are received within the timetable.

You should be aware that any submissions you make will be published on our web site and will be made available for inspection and copying. You should not, therefore, include personal information unless you are happy for it to be seen by others.

3. The Procedure for dealing with appeals

The initial stages are the same for all appeal procedures, whether they are decided by way of written representations, hearing or inquiry. Interested persons will be told of an appeal if they have already made representations in respect of the appeal site (at application stage) and will have six weeks from the **start date** to either add to or withdraw their comments.

If you did not make representations previously (and so will not be told of an appeal), you will be able to find out if an appeal has been made on a site by checking our web site. Again, any comments must be made before the six week deadline.

The 'start date'

As soon as we have received a valid appeal, we will copy it to the RA. They will then complete a questionnaire which they will send to the appellant and us, together with copies of any relevant correspondence.

We will then tell the appellant, RA, the Local Access Forum and anyone who has commented about the original application the procedure the appeal will follow as well as the start date.

The start date is the date from which the timetable for each stage of the procedure is calculated. We will be setting start dates after the appeal period has ended. The letter we send you will set out the timetable for submission of evidence by all parties.

The six week time limit

Interested persons must submit any representations within six weeks of the start date. The appellant and the RA must also provide written statements of case by the same date. **We will not normally accept late representations, except in exceptional circumstances.**

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.

When the start date is set, we will also post notice of the appeal on our web site to allow anyone to be aware of the appeal and make representations about it if they wish.

The nine-week time limit

Within nine weeks of the start date, appellants and the RA can comment on each other's statements of case and on any comments from interested persons.

Welsh language

The Planning Inspectorate delivers an equally high standard of service to its customers in Welsh and English.

We recognise that our customers can express their views better in their preferred language of communication. Accordingly, we welcome 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.

It is not always possible to arrange for a Welsh speaking Inspector to attend the site visit. On these occasions we will arrange for an interpreter to assist the Inspector and ensure that the parties have the opportunity to communicate in the language of their choice.

The three types of procedure

4. The written procedure

This is likely to be the easiest and least expensive procedure for the appellant and the RA because they do not need to attend a hearing or inquiry. Appeals dealt with by written representations are decided based upon the written statements that the appellant, RA and interested persons have made. The appellant and RA can comment on each other's arguments and those made by interested persons.

Normally the Inspector will visit the site to make an inspection of it before making a decision.

5. The hearing procedure

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

Hearings are not always 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.

Notice of the hearing

Once the arrangements have been finalised we will give the appellant, the relevant authority and any interested persons who have made representations about the appeal at least four weeks notice of the hearing.

Conduct of the hearing

The procedure to be followed at a hearing is for the Inspector to decide.

The Inspector will normally open at the appointed time, even if the appellant or relevant authority is absent. The Inspector will introduce him/herself and describe the purpose of the hearing. The Inspector will summarise his/her understanding of the case from reading the papers and will outline what he/she considers to be the main issues and indicate any matters which require further clarification or explanation. This will not prevent any party raising issues that the Inspector does not mention.

The appellant and the RA are the only parties with a statutory right to speak at the hearing. But, the Inspector will not unreasonably withhold permission from any other person to appear provided they have something relevant to say that has not already been said. Regardless of who is speaking, the Inspector may refuse to hear evidence that is irrelevant, repetitious or offensive.

Where the Inspector refuses to permit someone to give oral evidence, that person may submit to the Inspector any evidence or other matter in writing before the close of the hearing.

The Inspector may require anyone present at the hearing who is behaving in a disruptive manner to leave the hearing and refuse to allow him or her to return, or to return only on conditions specified by the Inspector. But that person may submit to the Inspector any evidence or other matter in writing before the close of the hearing.

After the hearing

A site visit will normally take place (see Hearing/Inquiry site visits)

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

6. The Inquiry procedure

This is the most formal and demanding of the three procedures. We consider that public inquiries will only be required for appeals involving very complex or numerous issues, or where large numbers of people wish to attend. An application for costs may be made by any party against any other party at an inquiry (see section seven).

The early stages of an appeal following the inquiry procedure are very similar to those for hearings and written representations appeals. *But there some differences that the parties will have to adhere to.*

Statement of common ground

At least four weeks before the opening of the inquiry the appellant and the RA must send us a statement of common ground. This is a written statement that the appellant and the RA must prepare jointly. It should contain such basic matters such as a site description and any other undisputed factual matters, as well as any

agreements as the evidence that the main parties have been able to reach. Its purpose is to set out the agreed factual information about the appeal and it should, by narrowing the areas of dispute, result in shorter inquiries.

Advertising the inquiry

We will tell your local authority, the relevant local access forum and any people who have written to us about the arrangements for the inquiry.

At the inquiry

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.

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 has all the information needed to decide the appeal.

The RA will usually present their case first, then call any witnesses. The appellant can then present their case in the same way. Either party or the Inspector can ask questions during this process.

The appellant and the RA are the only parties with a statutory right to speak at the inquiry. But the Inspector will not unreasonably withhold permission from any other person to appear provided they have something relevant to say which has not already been said. Regardless of who is speaking, the Inspector may refuse to hear evidence that is irrelevant, repetitious or offensive.

Where the Inspector refuses to permit someone to give oral evidence, that person may submit to the Inspector any evidence or other matter in writing before the close of the inquiry.

The Inspector may require anyone present at the inquiry who is behaving in a disruptive manner to leave the inquiry and refuse to allow him or her to return, or to return only on conditions specified by the Inspector. But that person may submit to the Inspector any evidence or other matter in writing before the close of the inquiry.

Hearing/Inquiry site visits

In the majority of cases, the Inspector will visit the appeal site before making the decision. In hearing of inquiry cases, the site

visit will normally take place after the Inspector has heard all the evidence. The site visit may take place on the day of the hearing or inquiry, but if not shortly after.

At the end of the hearing or inquiry, the Inspector will ask if the appellant, the relevant authority and anyone else wish to attend. When deciding whether to accompany the Inspector you should bear in mind that the Inspector will be unable to accept new evidence or discuss the evidence already given **including interested person representations**. But the Inspector may ask for physical features referred to in the evidence to be pointed out at the site.

This rule will be strictly observed by Inspectors. Should you try to raise points of evidence during the visit, the Inspector will ask you not to do so and explain why. If you continue to discuss the evidence, the Inspector may ask you to leave the site.

Late comments

The Inspector will only consider any evidence we receive after the inquiry has closed in extraordinary circumstances. If we get new evidence after the inquiry but before we issue the Inspector's decision, we will pass it to the Inspector to decide if he/she will consider it. If, in very unusual circumstances they do, we will pass it on to the other people who were involved in the inquiry. If necessary, we will re-open the inquiry.

People with disabilities

We want to hold all inquiries in buildings that give proper facilities for people with disabilities. The RA 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 RA to confirm they can make proper arrangements.

Meetings before an inquiry

Sometimes, if a lot of people want to go to the inquiry or the appeal is complicated and likely to last for more than eight days, we will arrange a meeting before the inquiry (a pre-inquiry meeting). Its purpose will be to identify the key issues to be discussed at the inquiry. **The pre-inquiry meeting will not hear any evidence which must be heard at the full inquiry.**

No-one other than the two main parties has a right to attend a pre-inquiry meeting (and for this reason we will not give notice of it). Where the Inspector thinks it desirable for anyone in addition to the appellant and the RA to be present, those people or organisations may be invited to the pre-inquiry meeting. We will give at least two weeks written notice if someone is to be invited.

The decision

The Inspector's decision on an appeal will always be made in writing. It will usually:

- Briefly describe the reason for the appeal;
- Identify the important issues; and
- Examine the main arguments for and against the appeal and explain why the Inspector has come to the decision.

A copy will be sent to the appellant, the RA, interested persons and anyone else who is entitled to a copy or who has asked for one. All decision letters will be displayed on our website.

7. Costs

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

In general, interested persons will not have costs awarded to them, or against them, where unreasonable behaviour by the appellant or RA relates to the substance of the case. But, where unreasonable conduct relating to procedural matters caused unnecessary expense, interested persons may be awarded costs, or have costs awarded against them.

For further information on the rules relating to costs, please see the Welsh Government's Development Management Manual – Section 12 Annex: Award of Costs.

<https://gov.wales/sites/default/files/publications/2018-10/section-12-annex-award-of-costs.pdf>

8. Complaints and Challenges

Complaints about us

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

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

Phone: 0303 444 5940

E-mail: wales@planninginspectorate.gov.uk

The Complaints Manager will reply to you, or they will ask a section within the Inspectorate to reply because they have specific specialist knowledge.

We will investigate your complaint and you can expect a full reply within three weeks. **However, we cannot reconsider an appeal if the decision has already been made on it.**

How can I challenge a decision?

You may be able to challenge the decision by way of judicial review in the High Court. The Inspectorate strongly recommends that you seek legal advice if you intend to do so.

The Welsh Administration Ombudsman

If you think that we have not treated you fairly, you can ask the Ombudsman to investigate. The Ombudsman has no power to question the merits of an appeal or to alter the decision. The Ombudsman 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 investigating your case. You can complain to the Ombudsman at:

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

Tel: 0300 790 0203
Email: ask@ombudsman.wales

The Council on Tribunals

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

Council on Tribunals
22 Kingsway
London
WC2B 6LE

The Council will take up your complaint if they think it concerns them. Like the Ombudsman, they are not concerned with the merits of an appeal and have no power to alter the decision.

Appeals in England

If you want to enquire about appeals against the refusal of a relevant authority to restrict or exclude access to areas of open country and registered common land at a site in England, please contact the Team at;

Environment and Transport Team
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Phone: 0303 444 5000
E-mail: environment.appeals@planninginspectorate.gov.uk

9. Data Protection and Privacy in PINS

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 National Assembly for Wales) receives a variety of personal information. This information comes from a number of sources including the appeal form and any documentation of support or objection.

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

Data Protection

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

In particular we will:

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

Who has access to your personal information?

The appeal papers will be open for inspection at specified locations and anyone can inspect and take copies of them. Any person entitled to be notified of the decision in an inquiry case has a legal right to apply to inspect the listed documents, photographs and plans within 6 weeks of the date of decision. Other requests to see the appeal documents will not normally be refused. In addition information received may be placed on our website and will be accessible worldwide by any third party including individuals or organisations who have no direct interest in the particular appeal.

What information do we hold?

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

What steps should you take?

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

The Data Controller

The data controller (the organisation responsible for dealing with personal information) is the National Assembly for Wales.

Your rights to see personal information

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

- erased
- rectified or amended
- completed.

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

Complaints about access to personal information

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

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Switchboard: 01625 545 700
Fax: 01625 524 510
DX: 20819 Wilmslow
Website: www.dataprotection.gov.uk/
E-mail: mail@dataprotection.gov.uk