

Number: WG28856



Consultation – Index of responses

Ymgynghoriad – Mynegai o ymatebion

Appeals, costs and standard daily amounts

Apeliadau, costau a symiau dyddiol safonol

March 2017

Mawrth 2017

Index of responses / Mynegai o ymatebion

Introduction / Cyflwyniad

On 10 August 2016 the Welsh Government published a consultation paper which set out detailed proposals relating to reforms to the appeals and costs processes. It also consulted on revised standard daily amounts for hearings and inquiries into certain proceedings. The consultation closed on 4 November 2016.

Ar 10 Awst 2016, cyhoeddodd Llywodraeth Cymru bapur ymgynghori lle nodwyd cynigion manwl sy'n ymwneud â newidiadau i'r prosesau apeliadau a chostau. Hefyd, yngynghorodd y papur ar ddiwygiadau i'r symiau dyddiol safonol ar gyfer gwrandawiadau ac ymchwiliadau i achosion penodol. Daeth yr ymgynghoriad i ben ar 4 Tachwedd 2016.

Responses / Ymatebion

Details of the consultation have been published here:

<https://consultations.gov.wales/consultations/appeals-costs-and-standard-daily-amounts>

A total of 23 responses were received. Respondents were asked to complete a separate response form. All responses were received by email. Of the responses, 20 were received on the response form. Each response was assigned a specific reference number.

Cyhoeddwyd manylion yr ymgynghoriad yma:

<https://ymgyngoriadau.llyw.cymru/ymgyngoriadau/apeliadau-costau-symiau-dyddiol-safonol>

Derbyniwyd cyfanswm o 23 o ymatebion. Gofynnwyd i ymatebwyr lenwi ffurflen ymateb ar wahân. Derbyniwyd yr holl ymatebion drwy e-bost. O'r ymatebion, derbyniwyd 20 ar y ffurflen ymateb. Mae pob ymateb wedi ei neilltuo â chyfeirnod penodol.

Data Protection / Diogelu data

For data protection purposes, the names and address details for those respondents who did not wish to be identified have been removed from the index below and from the published consultation responses.

Ar gyfer dibenion diogelu data, tynnwyd manylion o enwau a chyfieriadau y rhai nad oeddent yn dymuno cael eu enwi oddi ar y mynegai isod ac o'r ymatebion i'r ymgynghoriad a gyhoeddwyd.

Index of Responses / Mynegai o Ymatebion

Businesses / Planning Consultants Busnesau/ Ymgynghorwyr Cynllunio		Local Planning Authority / Awdurdod Cynllunio Lleol	
016	Redrow Homes	002	Merthyr Tydfil
017	Innogy Renewables UK Ltd	003	National Parks Wales
Government Agency / Other Public Sector Asiantaeth y Llywodraeth / Corff Sector Cyhoeddus Arall		004	Gwynedd
001	The Coal Authority	005	Caerphilly
006	The Health and Safety Executive	007	Newport
008	Natural Resources Wales	011	<i>Anonymous / Dienw</i>
019	Penarth Town Council	014	<i>Anonymous/ Dienw</i>
Professional Bodies / Interest Groups Cyrff Proffesiynol / Grwpiau â Diddordeb		015	Bridgend
012	RTPI Cymru	018	Vale of Glamorgan
020	The Law Society	022	Flintshire
021	Home Builders Federation	023	Neath Port Talbot
Other Arall		Voluntary Sector Sector Gwirfoddol	
009	CLA Cymru		None
010	The Canal and River Trust in Wales		
013	Persimmon Homes		

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Mr Mark Harrison	
Organisation	The Coal Authority	
Address	200 Lichfield Lane, Berry Hill, Mansfield, NG18 4RG	
E-mail address	planningconsultation@coal.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No Comment				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No Comment				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-g@wales.gsi.gov.uk Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Judith Jones	
Organisation	Merthyr Tydfil County Borough Council	
Address	Planning & Countryside Division, Unit 5, Triangle Business Park, Pentrebach, Merthyr Tydfil, CF48 4TQ	
E-mail address	judith.jones@merthyr.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: If LPA's have efficient systems in place for record retrieval, and contingency measures for staff leave, 5 days for return of the questionnaire is reasonable.</p>				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

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Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick)

How to Respond

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<p>Please complete the consultation form and send it to :</p> <p>planconsultations-g@wales.gsi.gov.uk</p> <p>[Please include 'Appeals, costs and standard daily amounts' in the subject line]</p>
Post
<p>Please complete the consultation form and send it to:</p> <p>Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ</p>
Additional information
<p>If you have any queries on this consultation, please</p> <p>Email: planconsultations-g@wales.gsi.gov.uk</p> <p>Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)</p>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Nicola Gandy	
Organisation	National Parks Wales	
Address	Llanion Park Pembroke Dock Pembrokeshire SA72 6DY	
E-mail address	nicolag@pembrokeshirecoast.org.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

- The National Park Authorities (NPA) consider that the time period for the submission of statement of case by the Local Planning Authority (LPA) should remain at 6 weeks. This allows for sufficient time to provide an amplification of the LPA case and to properly respond to the appellant's case.

A 6 week submission period is not considered unreasonable and still allows the Planning Inspectorate a period of 6 weeks to make a decision in the case of written representations and longer with other procedures. A 6 week period would be in-line with the proposed call-in procedure as outlined in para 2.28 of the consultation document.

- The NPAs welcome the requirement for the appellant to submit a full statement from the submission. The NPAs will be in a position to submit a more focused statement.
- At para 2.25 a clear understanding of what is meant by the term 'certain circumstances' as this could be misinterpreted and open to abuse.

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The NPAs welcome this change.</p>				

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The time period for submitting the questionnaire should remain at 2 weeks due to limited staffing levels within LPAs. It is considered that continuing to allow for a 2 week period for the submission of the questionnaire would not have a significant impact on the overall time scales of the appeal.</p> <p>A 4 week submission period will not provide the LPA with sufficient time to submit their statement given that the appellants will be submitting their full case at the outset, which will result in additional work for the LPA as the statement will not only have to present the LPA case but also respond to the appellants case, as such, NPAs consider that the period for submitting the LPA statement should remain at 6 weeks.</p> <p>The proposed two week period for submission of final comments is considered reasonable.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The NPAs welcome the fact that Statements of Common Ground (SoCG) will not be a statutory requirement and consider this change will assist with speeding up the appeal process.</p> <p>However, SoCG can be extremely useful at appeal for all parties and should, therefore, be encouraged at any stage of an appeal.</p>				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The mixed mode examination should only be used in exceptional circumstances as the process would create additional work for the LPA , confusion for interested parties and would be likely to significantly prolong the appeal process.</p>				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Comments:

The NPAs agree with the proposed word limit , however, the submission of additional representations should not affect the decision date of an appeal.

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

This response has been prepared in accord with the wording of Q9 within the consultation document and not the wording on this form which repeats Q8.

Para 2.72 of the consultation document states that PINS will deal with an application in the form it was considered by the LPA, this change is welcomed by the NPAs.

However, the exceptions at para 2.74 of the consultation document raise serious concerns as by allowing the exceptions this would not achieve the Welsh Government's aim of making the appeal system transparent, fair and accessible nor will it be a fair representation of an LPA's performance at appeal.

Appeals, cost and standard daily amounts

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Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The objective of this proposed change is to ensure that the frivolous and spurious appeals are not submitted and to recover wasted and unnecessary cost to the public purse. However, the NPAs fail to understand how placing costs against LPA will achieve the aim of recovering wasted and unnecessary expense to the public purse as such costs would also be paid out of the public purse. However, it may preclude applications being refused without adequate justification.</p> <p>The NPAs consider that these costs should only be applied in cases where there has been a clear incident of unreasonable behaviour.</p>				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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<p>Comments: The grounds for unreasonable behaviour cover most aspects and allow for additional circumstances by the caveat 'and not limited to'.</p> <p>The proposed procedural examples for LPAs relating to refusing to co-operate and delaying in providing information requested by the Planning Inspectorate should also be added to the examples for appellants.</p> <p>The proposed substantive example for LPAs 'Not determining or providing a position on a similar case in a consistent manner' should only be considered when there has been no material changes in circumstance.</p> <p>The proposed example relating to introducing new grounds of appeal, evidence or relevant information late in the proceedings should be removed as this should no longer be permitted by the Planning Inspectorate as stated at para 2.72 of the consultation document.</p>				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: In the case of all appeals, the application for costs from the appellant should be submitted alongside the full statement of case and the opportunity for appellants to make an application for costs at the hearing/inquiry should only be permitted in exceptional circumstances.</p>				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further	No
			further	

Appeals, cost and standard daily amounts

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			comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: The new legislation and accompanying guidance should clearly state whether the costs procedure also applies to appeals against conditions attached to planning permissions.				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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How to Respond

Appeals, cost and standard daily amounts

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Post
<p>Please complete the consultation form and send it to:</p> <p>Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ</p>
Additional information
<p>If you have any queries on this consultation, please</p> <p>Email: planconsultations-g@wales.gsi.gov.uk</p> <p>Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)</p>

Cyfeirnod yr Ymgynghoriad: WG28856

Apeliadau, costau a symiau dyddiol safonol		
Dyddiad y cyfnod ymgynghori: 10 Awst 2016 – 4 Tachwedd 2016		
Enw	Gareth Jones, Uwch Reolwr Gwasanaeth Cynllunio, Amgylchedd a Gwarchod y Cyhoedd	
Sefydliad	Cyngor Gwynedd	
Cyfeiriad	Gwasanaeth Cynllunio, Ffordd y Cob, Pwllheli, Gwynedd. LL53 5AA	
Cyfeiriad e-bost	Cynllunio@gwynedd.llyw.cymru	
Math <i>(dewiswch un o'r canlynol)</i>	Busnesau/Ymgynghorwyr Cynllunio	<input type="checkbox"/>
	Awdurdod Cynllunio Lleol	<input checked="" type="checkbox"/>
	Asiantaeth y Llywodraeth/Corff Sector Cyhoeddus Arall	<input type="checkbox"/>
	Cyrff Proffesiynol/Grwpiau â Diddordeb	<input type="checkbox"/>
	Sector gwirfoddol (grwpiau cymunedol, gwirfoddolwyr, grwpiau hunangymorth, mentrau cydweithredol, mentrau cymdeithasol, crefyddol a sefydliadau nid er elw)	<input type="checkbox"/>
	Arall (grwpiau eraill nas rhestrir uchod) neu unigolyn	<input type="checkbox"/>

2.0 Gweithdrefnau apelio a galw i mewn

C1	A ydych yn cytuno â'n cynigion gweithdrefnol ynghylch datganiadau achos llawn i'w gael eu gyflwyno gyda apêl yn y rhan fwyaf o amgylchiadau? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylwadau:				

C2	A ydych yn cytuno â'r diffiniad o 'ddatganiad achos llawn' ym mharagraff 2.10? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Awgrymir fod y diffiniad yn 'holl ddogfennau' (all documents) ac nid 'unrhyw ddogfennau' (all documents) fel a nodir yn y ddogfen ymgynghori sydd ond ar gael yn saesneg				

C3	A ydych yn cytuno â'n cynigion i alluogi Gweinidogion Cymru (neu'r Arolygiaeth Gynllunio) i bennu'r weithdrefn ar gyfer apeliadau yn erbyn hysbysiadau tramgwydd sylweddau peryglus ac apeliadau yn erbyn hysbysiadau sy'n ei gwneud yn ofynnol i gynnal a chadw tir yn ddiogel, a phenderfynu ar yr apeliadau hynny? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sylwadau:				

Apeliadau, costau a symiau dyddiol safonol

Cyfeirnod yr Ymgynghoriad: WG28856

C4	A ydych yn cytuno â'n cynigion mewn perthynas â newidiadau i'r weithdrefn gychwynnol a'r weithdrefn a ddilynir gan bartïon wrth gyflwyno dogfennau craidd? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Ystyrir fod 5 diwrnod gwaith yn gyfnod rhy fyr gan fod rhai achosion yn gymhleth a gyda llawer iawn o waith papur cefndir sydd angen ei atodi i'r wybodaeth apel. Cwestiynir felly os yw'r amserlen a awgrymir yn amserlen sydd yn wir ymarferol, rhesymol a realistig				

C5	A ydych yn cytuno â'n cynigion ynghylch Datganiadau o Dir Cyffredin? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Ystyrir fod angen gwneud yn glir pwy sydd yn arwain ar hwn, beth fyddai'r fformat safonol ayb. Credir y dylai'r apelydd arwain arno gyda mewnbwn gan yr ACLL ac mae hyn wedi digwydd yn llwyddiannus yn y gorffennol. Efallai na wnaiff y fath drefn sicrhau datrusiad ond gall atal trafodaeth diangen sydd yn ymwneud gyda materion sydd yn gyffredin neu a gytunwyd arnynt rhwng y partion.				

C6	A ydych yn cytuno â'n cynigion ynghylch yr archwiliad dull cymysg ar gyfer apeliadau ac achosion sydd wedi'u galw i mewn? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sylwadau: Credir fod angen i'r ffordd mae hyn yn digwydd fod yn cyfateb â lefel yr achos, yn gyson rhwng achosion ac yn dryloyw				

Apeliadau, costau a symiau dyddiol safonol

Cyfeirnod yr Ymgynghoriad: WG28856

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C7	A ydych yn cytuno y dylid cyflwyno terfyn geiriau o 3,000 fesul pwnc ar gyfer cynrychioliadau pellach y mae'r Arolygydd yn gofyn amdanynt wrth archwilio apêl neu achos sydd wedi'i alw i mewn? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Cwestiynir os yw hyn yn yn hwyluso a symleiddio'r broses?

C8	A ydych yn cytuno â'r amgylchiadau lle gellir amrywio cais yn achos apêl? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Mae'r amgylchiadau sydd wedi eu amlinellu yn amwys dros ben ac felly cwestiynir sut y gellir gweithredu y fath drefn yn gyson ac yn deg ac hefyd beth fyddai ei werth o'i gymharu gyda'r drefn bresennol. Ystyrir fod yr ymateb i C9 isod hefyd yn berthnasol yma.

C9	A ydych yn cytuno â'r amgylchiadau lle gellir amrywio cais yn achos apêl? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Apeliadau, costau a symiau dyddiol safonol

Cyfeirnod yr Ymgynghoriad: WG28856

	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau:</p> <p>Noder: mae'r cwestiwn hwn yn union fel C8 uchod yn y ferswin Gymraeg a'r Saesneg ond mae'n gywir yn y Ddogfen Ymgynghori sydd ar gael yn Saesneg yn unig.</p> <p>Fel ateb i'r C9 cywir - cytunir gyda'r hyn sydd yn cael ei ofyn ond os yw ei angen ar gyfer cywirdeb yn hytrach na newid mwy sylweddol sydd yn ymwneud gydag egwyddor neu oresgyn sail y gwrthodiad. Pryder am sut y byddai hyn yn cael ei weithredu h.y. beth fyddai'r amserlen ar gyfer cyflwyno gwybodaeth newydd? Beth am waith a chostau dianghenrhaid i'r ACLL oherwydd gweinyddu'r apel? Angen rhoi mwy o ystyriaeth i sut mae hyn am weithio, pa mor ymarferol fyddai ac beth yw'r oblygiadau i'r holl bartion. Ystyrir fod yr ateb i C8 uchod hefyd yn berthnasol yma.</p>			

C10	A ydych yn cytuno â'n cynigion i gyflwyno terfyn amser o chwe mis ar gyfer apeliadau tystysgrif cyfreithlondeb yn erbyn penderfyniad gan ACLI? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau:</p>				

3.0 Costau

C11	A ydych yn cytuno y dylai Gweinidogion Cymru allu adennill eu costau eu hunain? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Apeliadau, costau a symiau dyddiol safonol

Cyfeirnod yr Ymgynghoriad: WG28856

Sylwadau:
Rhaid i'r costau fod yn rhesymol ac fod prawf clir i'w cyfiawnhau. Rhaid i'r broses/drefn/dull o adennill fod yn gyson a thryloyw

C12	A ydych yn cytuno â'r sail dros ymddygiad afresymol a nodir yn y fersiwn ddrafft o'r canllawiau wedi'u diweddarau (yn Atodiad C)? Os nad ydych, nodwch seiliau amgen neu ychwanegol.	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Sylwadau:
Consyrrn fod yr enghreifftiau sydd wedi ei rhoi ar gyfer ymddygiad afresymol ACLL yn ragnodol iawn. Credir y dylai hyn fod yn fater o ddisgresiwn i'r Arolygydd yng ngolau yr holl ffeithiau/amgylchiadau gerbron h.y. pob achos ar ei haeddiant. Bydd gofyn i'r Arolygydd fod yn gyson ac yn deg (evenhanded) gyda'r ddwy ochr - nid yw'n ymddangos felly ar hyn o bryd. Fydd modd apelio unrhyw ddehongliad/penderfyniad, yn enwedig yr achosion ffiniol?

C13	A ydych yn cytuno â'r broses ar gyfer dyfarnu costau a nodir yn Atodiad A o'r fersiwn ddrafft o'r canllawiau wedi'u diweddarau (yn Atodiad C)? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Sylwadau:
Gweler ymateb i C12 uchod

C14	A ddylid cynnwys unrhyw wybodaeth	Dylid		Na
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Apeliadau, costau a symiau dyddiol safonol

Cyfeirnod yr Ymgynghoriad: WG28856

	ychwanegol yn y fersiwn ddrafft o'r canllawiau wedi'u diweddar (yn Atodiad C)?		Dylid (yn amodol ar sylwadau pellach)	ddylid
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Sylwadau: Gweler sylwadau blaenorol C12 a C13</p>				

4.0 Symiau Dyddiol Safonol ar gyfer Achosion Penodol

C15	A ydych yn cytuno â'r dull diwygiedig ar gyfer codi symiau dyddiol ar gyfer gweithdrefnau cymwys ac ymchwiliadau lleol? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Credir fod angen i'r ffordd mae hyn yn digwydd fod yn gyson ac yn dryloyw</p>				

C16	A ydych yn cytuno â'r symiau dyddiol safonol a gynigir yn Atodiad D? Os nad ydych, pam?	Ydw	Ydw (yn amodol ar sylwadau pellach)	Nac ydw
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Sylwadau: Mae'r symiau dyddiol yn ymddangos yn gyson gyda'r hyn sydd yn digwydd yn bresennol. Da gweld beth yw costau swyddogion eraill heblaw am yr Arolygwyr.</p>				

Nid wyf yn dymuno i'm henw/cyfeiriad gael ei gyhoeddi gyda'm hymateb (ticiwch)

Apeliadau, costau a symiau dyddiol safonol

Cyfeirnod yr Ymgynghoriad: WG28856

Sut i Ymateb

Cyflwynwch eich sylwadau drwy un o'r ffyrdd canlynol:

E-bost
<p>Cwblhewch y ffurflen ymgynghori a'i hanfon i:</p> <p>planconsultations-g@wales.gsi.gov.uk</p> <p>[Dylech gynnwys 'Apeliadau, costau a symiau dyddiol safonol' yn y llinell destun]</p>
Post
<p>Cwblhewch y ffurflen ymgynghori a'i hanfon i:</p> <p>Ymgynghoriad ar apeliadau, costau a symiau dyddiol safonol Y Gangen Penderfyniadau. Yr Is-adran Gynllunio Llywodraeth Cymru Parc Cathays Caerdydd CF10 3NQ</p>
Gwybodaeth ychwanegol
<p>Os oes gennych unrhyw ymholiadau am yr ymgynghoriad hwn, gallwch gysylltu drwy</p> <p>E-bost: planconsultations-g@wales.gsi.gov.uk</p> <p>Ffôn: Lewis Thomas (029 2082 3201) neu Owain Williams (029 2082 1715)</p>

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Tim Stephens	
Organisation	Caerphilly County Borough Council	
Address	Tredomen House, Tredomen Park, Ystrad Mynach, Hengoed, CF82 7WF.	
E-mail address	stepht@caerphilly.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The timescale for the submission by the LPA of the questionnaire and documents is too short. It may work at present for householder appeals, but that is because they are simple and involve few documents. It would place an unreasonable burden on LPAs to have to produce the appropriate documentation for major appeals within 5 days.</p>				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Careful consideration will have to be given to the meaning of 'exceptional circumstances'.				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
There is nothing wrong in principle with making explicit the charge incurred by officers other than the inspector				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: No, not without a clear indication of how the new costs will differ from the old costs. It is not clear what impact those hourly costs would have on the total cost for an inquiry or other procedure.</p>				

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation form and send it to :</p> <p>planconsultations-g@wales.gsi.gov.uk</p> <p>[Please include 'Appeals, costs and standard daily amounts' in the subject line]</p>
Post

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Lewis, Paul M J (ESNR-Planning)

From: Diane.Savage@hse.gov.uk
Sent: 28 October 2016 10:14
To: planconsultations-g
Subject: Welsh Government Consultation WG28856 - Appeals, costs and standard daily amounts

Dear Planning Directorate (Welsh Government)

Consultation Number: WG28856 Appeals, costs and standard daily amounts

Thank you for the opportunity to comment on the above consultation. HSE supports the purpose and principles underpinning the proposals and we welcome this opportunity to share our views with you. As our comments relate to the proposals in general, rather than addressing the specific questions, I have set them out below, rather than in the questionnaire and I hope this is acceptable

Appeal and call-in procedures

The proposals to introduce measures that reduce the time taken to determine an appeal or call-in appear sensible. The requirement for appellants to submit a full statement of case prior to the start of the appeal or call-in process, justifies the reduction in time for submission of representations, and, subject to prompt notification from the LPA, should not place undue burdens on interested parties. In the case of HSE, we would expect to have sufficient information relating to our case to respond within the proposed timescales and, in the case of a call-in initiated by HSE, this should not be an issue.

Making changes to an appeal

Paragraph 2.72 sets out the proposal that PINS deal with an appeal application in the form that it was considered by the LPA. HSE wonders whether this approach would mean that amendments or compromises agreed post submission are not considered. If so, would the only option for the applicant be to submit a new application, and will this cause problems by delaying the process?

Draft updated guidance relating to costs (Annex C)

HSE notes the draft updated guidance for the award of costs contained at Annex C of the consultation document, in particular in relation to adverse costs against statutory consultees. HSE seeks reassurance that in circumstances where its advice changes during the inquiry process, for example where information it could not reasonably have obtained at an earlier stage comes to light, or where the change in advice is in response to a change in the application that materially affects HSE's advice, this would not be considered unreasonable behaviour.

Regards

Diane Savage

Diane Savage | Land Use Planning Policy | Major Hazards Policy Division | Hazardous Installations Directorate - Health & Safety Executive | 2.2 Redgrave Court, Merton Road, Bootle L20 7HS | ☎ +44(0)151 951 4522 (VPN 523) | ✉: Diane.Savage@hse.gov.uk
www.hse.gov.uk | <http://hse.gov.uk/landuseplanning>



HSE is engaging with stakeholders to shape a new strategy for occupational safety and health in Great Britain [Find out more](#) and join the conversation #HelpGBWorkWell

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Please visit the HSE website at the following address to keep yourself up to date

www.hse.gov.uk

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Geraint N. Roberts	
Organisation	Newport City Council	
Address	Civic Centre Newport South Wales NP20 4UR	
E-mail address	planning@newport.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The Council agrees with this since appellants have a 6 month window in which to submit their appeal - this is sufficient time to prepare a full case and there should be no legitimate reason for further delay.</p>				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The Council agrees this is appropriate. Most issues have arisen where the appellant has preferred an appeal route that is not suitable leading to unnecessary expense for no better planning outcome or where the Inspectorate has allowed itself to be swayed by levels of objection rather than the criteria of the case in question.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The appellant will have 6 months to prepare their case, the LPA will have 4 weeks. This is actually highly asymmetric and could reduce the LPA's case to a critique of the appellant's case and nothing more due to time constraint.</p> <p>There will be every little time to consult or instruct specialists if the appellant submits a significantly revised evidence base from the application process or major revisions to the scheme. As such the submission of large volumes of new evidence or revisions should be precluded or in the event this happens further time offered for any necessary rebuttal allowed. Otherwise appellants will be given a very significant time advantage over LPAs - this would be most unfair and should not be allowed.</p>				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The Council agrees with this proposal since it may focus on issues of dispute and reduce expenditure of time and money. However in the Council's experience they have been of limited use often only confirming already well understood points of difference identified in the Decision Notice.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>By their nature the topics to be heard are likely to be complex or contested (or both). The word limit will focus people's minds and may avoid any tendency to bludgeon appeal parties by weight of information. Summaries should be provided where an appeal party shows that it is necessary to significantly exceed the word limit (and the Inspector accepts this is so) or else we will see 'creep' in the size of submitted documents. Very extensive appendices should also be precluded in order to prevent the 'never mind the quality, feel the width' stance of some agents.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Applicants may simply have refused to amend a scheme prior to determination on the basis that they considered it acceptable (and the LPA did not). In my experience most post-decision amendments could have been made prior to decision and it is only the appellant's desire to whittle away reasons for refusal that prompts concession during an appeal. However appellants may be more minded to negotiate prior to decision if amendments cannot be made or new evidence submitted post-decision.

A no amendments ruling would not prevent the submission of very large amounts of additional information to substantiate a scheme's merits - retail information, traffic data etc. Any guidance would need to be entirely clear that the submission of scheme amendments and supporting evidence is precluded.

In my mind the submission of any information that materially affects the decision to be made should be precluded at appeal since again if its submission is allowed then in effect it is not the application the LPA dealt with and the public were consulted on; with and the same issues of access and accountability arising.

Anything that requires further consultation or referral to experts should not be admitted whatever the circumstances. The circumstances proposed would need to be rigorously applied by Inspectors. Appellants will no doubt argue they could not have addressed reasons for refusal until they were in receipt of a notice and will see the first test as very low bar. The first an LPA will know of the appeal content is when they receive the Statement of Case so would not be in a position to dispute this until after the appeal is accepted. The second test is so high bar it rarely will be met in normal appeal circumstances (unless some unknown information material to the determination comes to light after the application is refused e.g. a bat colony is established).

It is essential that the appellant is required to confirm the scheme or accompanying evidence is amended and to explain why this was not done in the application phase. If this is not done then an appeal should not be validated. In the event the LPA or a third party consider the tests for amendment / additional information is not met then there should be a means of challenge.

Appellants should not be encouraged to see the appeal process as an opportunity to significantly re-work their submission in any way - this is especially if the whole point of the changes is to speed up the appeal process. If decisions are to be speeded up this must include refusals as well as grants or else the public will not see the system as even handed. They will see the appeal system as a less accountable shadow system running in favour of developers and outside the control of elected (and accountable) Councils which is to some extent what they currently think anyway.

These proposed changes will be very unpopular with developers and PINS will need to hold a high line to make this change stick. If LPAs and third parties are to retain confidence in the system appellants will need to show one or both of the proposed tests were robustly passed. As noted above the Council is strongly of the view any change that requires public consultation or expert analysis should never be accepted. Only minor changes should be allowed.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Yes - subject to rigid application or else everything will become 'exceptional'. There can be no pandering to appellants or LPAs. Appeals that have been amended or have a significantly varied evidence base should demonstrate the tests are passed prior to validation. LPAs and third parties should have a right to challenge validation.</p>				

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Appellants should be able to find suitable evidence within 6 months and should not be prejudiced. Given LDCs are a snapshot in time to allow excessive distance to arise between the decision and any appeal would not be rational.</p>				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be	Yes		No
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Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	able to recover their own costs? If not, why not?		Yes (subject to further comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Awarding costs to yourself will always lead to levels of public concern over probity and the objectivity of costs awards decisions will be called into question unless very carefully justified.</p> <p>If the aim is to deter frivolous appeals and poor behaviour in general terms the existing costs regime already has the same disciplining effect. Is there any evidence a weightier stick is needed? Costs are rarely awarded now (where sought) and in my experience appellants are rarely deterred from seeking their costs should they feel aggrieved.</p> <p>If Welsh Government is to take a more prominent role in the planning process (DNS for example) there must be public confidence that it is objective. Ability to award costs to PINs might undermine this since the public will see little difference between Planning Division and PINs Wales.</p> <p>I would have preferred the introduction of fee akin to that for planning applications if the WG is concerned over cost recovery (rather than the stated reason of deterring unreasonable behaviour).</p>				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>Failure to determine an application within the statutory period cannot be inherently unreasonable even if there was no substantive planning reason for the delay. If a non-determination appeal becomes 'no cost' at any point after 8 weeks then the result may be more appeals not less, taking more time and costing more money. This needs to be reconsidered.</p> <p>If fees are refunded after 16 weeks then any time after this is potentially unreasonable? 8 weeks isn't.</p> <p>Should an Inspector remove a condition on appeal the implication is that this is a costable matter automatically. This cannot be so in every instance and this point should be reconsidered.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Likewise preventing or delaying an application that should have been approved would imply the Council was unreasonable whenever an appeal is allowed. This is a nonsense.

Not determining or providing a position on similar cases in a consistent manner is also a nonsense since it undermines the well established principle of every application on its own merits. If this is applied it should also apply to applicants?

Given by Statute LPAs need not negotiate on a Legal Agreement for a period of 5 years would this amount to non-cooperation? This would need a great deal more clarification.

Other than this the grounds suggested look broadly fair.

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
<p>Comments:</p> <p>If an appellant or LPA can't identify unreasonable behaviour in an appeal then I see no reason for a 3rd party to do so, particularly when that party may be a beneficiary of an award of costs. The public will not see much of the way in separation between Planning Division and the Inspectorate and there is a risk public confidence will be undermined in the overall process.</p> <p>Planning Division may lack the day to day experience of dealing with applications and appeals that PINS and the LPAs have. There is a risk they will be too dependent on the Inspector's judgement - and PINs may be a beneficiary of an award. Loss of confidence in the process is a risk. I would also note that in this authority's experience Inspectors have been reluctant to award costs against appellants who have been naïve or badly advised but have held the LPA to a higher standard. LPAs must also have confidence they will be treated fairly within the system. Not all development is acceptable and LPAs should be assured they can confidently refuse permission where justified and also receive their costs where justified.</p>		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: The Council considers no additional information should be included beyond further clarification to its objections at question 12 should those clauses be retained.</p>				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Suggested fees seem reasonable in the main but they don't seem to obviously</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

match the Schedule to the Developments of National Significance (Fees) (Wales) Regulations 2016 even allowing for the 'roll-up' of costs in the Regulations. Given how recent those Regulations are this seems odd and ought to be justified given the aim is the same (full cost recovery)? This may suggest the cost break-down at Annex D is more transparent and user friendly? Either way there should be no significant discrepancy between the two charging regimes.

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-g@wales.gsi.gov.uk

[Please include '**Appeals, costs and standard daily amounts**' in the subject line]

Post

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Rhian Jardine Head of Sustainable Communities	
Organisation	Natural Resources Wales	
Address	Cambria House 29 Newport Road Cardiff CF24 0TP	
E-mail address	KSP.Planning@cyfoethnaturiolcymru.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
NRW supports the proposal for full statements of case to be submitted with an appeal in most circumstances. We consider this allows for the frontloading of the process, and would allow statements of case from interested parties to be produced in the full knowledge of all matters raised by the appellant.

Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
NRW agrees with the definition of ‘full statement of case’ in paragraph 2.10: “a written statement which contains full particulars of the case and all the matters which a person proposes to raise and copies of any documents, materials and evidence they intend to rely on in evidence”. While we note from comments made in paragraph 2.5 that the statement will include policy arguments, for the purpose of clarity, the definition should also specify the need to link case particulars with relevant national and local planning policy.

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
NRW has no comments on this matter.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

NRW agrees with the adoption of a clear procedure for submitting core documents by parties, which would allow for focused representations at the outset.

We recognise the need to take on board positive planning reforms and a need for the planning appeal process to speed up. However, we would have concerns where there is no flexibility for the Planning Inspector to alter the timescales for submissions from interested parties to reflect the complexity of the case.

The changes propose that representations are submitted within 4 weeks of the starting date of an appeal (paragraphs 2.42-2.45) and detailed final comments to be submitted within 6 weeks (paragraphs 2.46 and 2.47). However, from our experience of dealing with large-scale cases there may be occasions where despite best endeavours, longer-time periods may be required to appropriately consider complex and technical information. We therefore believe that it would be prudent to include clauses enabling Planning Inspectors the discretion to allow, where appropriate, negotiated timescales for submission of representations.

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

Consultation Reference: WG28856

We welcome the intention to produce guidance for Statements for Common Ground (SoCG) and we would be pleased to offer our comments, informed by our experience to date, on the preparation of this guidance.

We support proposals set out in paragraphs 2.56-2.60 and the criteria in Annex B for mixed mode examination, which would allow a Planning Inspector to tailor the procedure necessary to case requirements and alter the method of examination at any point in time should this be required. We would ask, however, that due notification of a change in proceedings, including changes in the type of information to be submitted and any changes in timescales are clearly explained to interested parties, including statutory consultees.

We agree that SoCG may be appropriate in appeals and called-in planning applications. We recognise that SoCG can help inform the appeal procedure. However, given the concerns highlighted in the consultation document, we agree that their preparation, whilst encouraged, should not be a statutory requirement and agree that SOCG should not be subject to a statutory deadline. Where a SOCG is to be agreed after the commencement of proceedings, we would propose that such a statement is initiated by a Planning Inspector where parties have indicated those areas to be agreed. The intention of our proposal is to ensure that parties are only asked to prepare statements where common ground is considered feasible, to prevent the preparation of unnecessary statements and to prevent unnecessary pressure being placed on a party to agree common ground where they are not in a position to do so.

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

We support proposals set out in paragraphs 2.56-2.60 and the criteria in Annex B for mixed mode examination, which would allow a Planning Inspector to tailor the procedure necessary to case requirements and alter the method of examination at any point in time should this be required. We would ask, however, that due notification of a change in proceedings, including changes in the type of information to be submitted and any changes in timescales are clearly explained to interested parties, including statutory consultees.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We seek further clarity on whether the proposed 3000 word limit per topic for further submissions includes or excludes technical appendices in addition to the main text.</p> <p>In cases where significant technical detail is required, it is often useful to provide a non-technical summary to explain the main findings. A 3000 word limit may also limit the matters that can be raised, and the level of detail provided.</p> <p>It is our view that where persons are involved in an appeal, they should be encouraged to prepare statements, which are concise and a 3000 word limit should be used as a guide rather than a rigid maximum. Alternatively, it may be prudent to include clauses to provide Planning Inspectors with the discretion to allow a negotiated change in word limit of submissions. In our role as a statutory consultee, we would welcome an opportunity to work with Welsh Government to develop guidance on this matter.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree with the principle that the Planning Inspectorate (PINS) should deal with an application in the form it was considered by a Local Planning Authority (LPA). We would agree that revisions to an application should be considered by the LPA in the first instance (paragraph 2.76) and changes to an application are precluded once a notice of appeal has been submitted and can only be made in</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

prescribed circumstances (paragraph 2.77). In raising awareness, we would suggest that guidance is made available to an applicant and appellant, which clearly explains the need to agree changes at the planning application stage and before submitting an appeal.

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: We agree with the specific or exceptional circumstances (described in paragraph 2.74), which allow new information to be raised following notice of appeal, which is at the discretion of the Planning Inspector.</p>				

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: We agree with the introduction of a six month time limit from the date of a planning decision for appeals to be made. We note that it is not proposed to introduce a time limit in the case of appeals relating to the failure of a LPA to determine a planning application. We are supportive of those changes, which will aim to ensure consistency with other types of planning appeals.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree with the introduction of a six month time limit from the date of a planning decision for appeals to be made. We note that it is not proposed to introduce a time limit in the case of appeals relating to the failure of a LPA to determine a planning application. We are supportive of those changes, which will aim to ensure consistency with other types of planning appeals.</p>				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>NRW has no comments on this matter.</p>				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft	Yes	Yes	No
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Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	updated guidance (at Annex C)? If not, why not?		(subject to further comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree with the process for the awards of costs, which is explained in Appendix A of the draft updated guidance (at Annex C). It would be helpful to have a flowchart to show the process to be followed, similar to the flow diagram shown in Annex A.</p> <p>In reference to comments made in Appendix A2, the appeal form allows an opportunity for the appellant to submit an application for an award of costs. It would be helpful to clarify whether the same form would be used during proceedings and/or following the withdrawal of an appeal; and for other persons taking part in the appeal proceedings.</p>				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>NRW has no comments on this matter.</p>				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>NRW has no comments on this matter.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: NRW has no comments on this matter.				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Rebecca Williams, Director	
Organisation	CLA Cymru	
Address	Ty Cymru, Presteigne Enterprise Park, Presteigne, Powys, LD8 2UF	
E-mail address	rebecca.williams@cla.org.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>NO. We do not agree with the proposals in para 2.18 to require full statements of case at the outset for Enforcement appeals. With deadlines of between 21-28 days to submit an enforcement appeal form, how can an appellant be expected to pull together all the necessary information, evidence witnesses etc to support an enforcement appeal in 21-28 days? This proposal is unreasonable and unfair.</p> <p>We set out below our requirements for Statements of case for enforcement appeals:</p> <p>A statement of case:</p> <ul style="list-style-type: none"> • must include a list of documents, maps and plans the appellant intends to rely on; • should describe, but not contain, the evidence; • should refer to any policies or other documents not referred to by the local planning authority but considered to support an appellant’s case; • should not, normally, in the local planning authority’s statement introduce additional policies, except where the local policies have changed since the notice was issued; • should set out both the planning and legal arguments which a party intends to put forward at the inquiry; • should cite any statutory provisions and case law they intend to use in support of their arguments; • should briefly describe any suggested mitigating factors; • should focus on the areas of differences - as the areas of agreement will be in the statement of common ground. <p>Our proposed definition for Enforcement appeals statements of case requires a description of the evidence, but does NOT require that the evidence is supplied at the appeal lodging stage. Rather the appellant must be able to provide supporting evidence as they do currently.</p> <p>We request that the Welsh Government clarifies that the consultation proposals only relate to s78 appeals.</p> <p>We remain very concerned about the impact of these procedural proposals on small rural developers who may have to expend a great of deal of resource (time and money) , that they may not have, employing a professional adviser to act for him/her in delivering the completed evidence at the appeal deadline stage.</p> <p>It is not at all clear that these proposals have been properly rural-proofed.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
NO. We do not agree with this definition and its applicability to enforcement appeals. See our comments above in our answer to question 1.

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
No. The Planning Inspectorate, as an independent body, should be the only organisation to determine procedures for and make decision on these appeals.

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
No. We strongly disagree with the timeframes as they will affect Enforcement appeals. Nor do we agree with the proposed shortening of timeframes for earlier

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

submissions of core documents or for the final comments stage. The reduction in time frames is likely to lead to poorer quality appeals, the outcomes of which are unlikely to be in the public interest. The existing timeframes work and should be continued rather than changed for the sake of change.

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We also suggest that the Welsh government considers the use of Alternative Dispute Resolution (ADR) at both Planning Application and Appeal stages. ADR may assist in preventing unnecessary planning appeals and could speed up the delivery of development.</p>				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The appellant must be given the opportunity to say why, in their opinion, a hearing or inquiry would be the correct way forward.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: An appellant will need to consider the LPA's reasons for refusal as part of their appeal. This may require the submission of new evidence that was not submitted at application stage. This new evidence should not be precluded.				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The question in the consultation relates to circumstances in which new information may be introduced during an appeal etc. An appellant will need to consider the LPA's reasons for refusal as part of their appeal. This may require the submission of new evidence that was not submitted at application stage. This new evidence should not be precluded.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Helen Edwards	
Organisation	Glandŵr Cymru, the Canal & River Trust in Wales	
Address	The Kiln, Mather Road, Newark, Nottinghamshire NG24 1FB	
E-mail address	helen.edwards@canalrivertrust.org.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>We are concerned by the proposal to reduce the time for interested party comments from 6 weeks to 4 weeks. This 6 or 4 week period includes the time period allowed for local planning authorities to notify interested parties of the appeal. It is proposed that LPA's will be expected to notify interested parties of the appeal within 5 working days of the start date. This is likely to leave interested parties, who may have no prior knowledge of the intention of the applicant to submit an appeal, with only 3 weeks to review the full statement of case and submit representations. It is accepted that under the current practice this time period may be only 4 weeks once an LPA has taken 2 weeks to notify interested parties. From Glandŵr Cymru's perspective however, we may need to call on specialists or legal advice to make our comments on the full statement of case and/or to provide support to LPA's in relation to defending a reason for refusal. Reducing this period to, in effect, 3 weeks would place a disproportionate pressure on interested parties given the overall time period that it takes to determine a planning application. The 6 week period should be retained.</p>				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for	Yes	Yes (subject to	No

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.		further comment	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

			further comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include 'Appeals, costs and standard daily amounts' in the subject line]
Post

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	[REDACTED]	
Organisation	Cardiff Council	
Address	[REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Would the LPA be involved in any decision making process when determining whether any appeal might be subject to mixed-mode procedures?				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Consideration should be given to allowing further notification/publicity for any new information to the wider public/Local Members (in line with the notifications/consultations on the original application).				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Insofar as these applications deal with matters of lawfulness rather than merit, it is considered that a time-limit period of 3 months would suffice. This would also help to focus the actions of an appellant and prevent 'speculative' appeals.</p>				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-q@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Roisin Willmott	
Organisation	RTPI Cymru	
Address		
E-mail address	roisin.willmott@rtpi.org.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>RTPI Cymru supports the principles set out in paragraph 1.8 of the consultation paper. The procedural proposals regarding full statements of case appear to take account of the variations between the types of appeal and of the time available to appellants to prepare such statements.</p>				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>RTPI Cymru agrees that the definition is satisfactory, however, should the appeal proceed by way of a procedure which does not involve the further presentation of evidence by witnesses and submissions from advocates, the appeal will be considered on the basis of this statement. This may help to ensure that the statement of case is sufficiently detailed to enable those appeals to proceed without further submissions.</p>				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
While a five working day period to return an appeal questionnaire should be adequate in most cases there may well be more complex cases with substantial numbers of third parties, where the assembly of information and notifications could take a little longer. It might be helpful to have provision to relax deadlines in such cases. Local Planning Authorities (LPAs) should be able to identify these potentially rare cases at the outset.

While LPAs will be more experienced and organised in terms of responding, consideration should be given to the position of third parties, who may be inexperienced and unfamiliar with procedures and requirements and who may find difficulty in meeting the shorter deadlines. At the very least there should be prominent advance notice that there will be a very short turnaround required.

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
We broadly support the proposals, but have the following additional comments. Preparation of Statements of Common Ground between appellants and LPAs is more practicable in the case of inquiries and hearings.

For written representations cases it seems unnecessary and only likely to introduce delays to decision making. However, the position of third parties and how they can be incorporated fairly in the process seems much more difficult. It would be unfair for third parties to be denied the opportunity to explore issues

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

of concern to them if they have been identified as Areas of Common Ground between LPAs and appellants.

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: While the reference to a word limit should encourage parties to be succinct and focus on the essentials, there may well be some issues where the word limit prevents evidence from being properly presented and some discretion should be afforded the Inspector. Evidence is also often backed up with supporting documents (published reports, for example) so these should be permitted to be attached where representations refer to or rely on them.				

Q8		Yes	Yes	No
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Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?		(subject to further comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 We support the limitation to vary an application after submission of an appeal. Where variations are allowed, there should be provisions for all the parties to an appeal to have the opportunity to comment on them. The definition of variations 'which do not affect the substance of the application' should be carefully drafted. We consider variations should go no further than non-material variations.

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 N.B. it is noted that this question is a repeat of Q8
 In the consultation document, question 9 is:
 "Do you agree with the circumstances in which new information may be introduced during an appeal or call-in? If not, why not?"
 In response to that question, we consider the very limited circumstances in which new information may be introduced are acceptable but where new information is allowed, there should be provisions for all the parties to an appeal to have the opportunity to comment on them.

Q10		Yes		No
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Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?		Yes (subject to further comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: If Welsh Ministers intend to recover their costs arising from the unreasonable behaviour of other parties, there needs to be some clarity as to how this is to be initiated and how other parties concerned are to be provided with an opportunity to respond.				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: While agreeing with the majority of the grounds set out in Annex C, we think that the wording of the following should be reconsidered. Regarding the final bullet point on page 46, the question of whether or not development should be permitted is a matter for the decision maker in any individual case and different decision makers may come to different conclusions dependent on the weight they attach to relevant policies and material considerations and on the exercise of their judgement.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

This should be recognised. It is a question of whether the decision making is reasonable and rational or not.

Bullet point 11 (page 47) appears to be covered by bullet point 5 on the same page?

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes <input type="checkbox"/>	Yes (subject to further comment) <input checked="" type="checkbox"/>	No <input type="checkbox"/>
<p>Comments: The consultation document does not adequately clarify how an award of costs application initiated by an Inspector will be processed and how other parties are involved.</p>				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes <input checked="" type="checkbox"/>	Yes (subject to further comment) <input type="checkbox"/>	No <input type="checkbox"/>
<p>Comments: Clarification is needed with regards why the written representation process is not appropriate for appeals where an award of costs application has been made, since the recent legislation provides for applications for awards of costs to apply to written representations cases (see Annex B page 34).</p>				

4.0 Standard Daily Amounts of Certain Proceedings

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: Yes, providing there are full details of the calculation of charges in individual cases.				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick)

How to Respond

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Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include 'Appeals, costs and standard daily amounts' in the subject line]
Post

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Please complete the consultation form and send it to:

Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Sarah Edwards	
Organisation	Persimmon Homes West Wales	
Address	Dragon House, Parc y Ddraig, Penllergaer Business Park, Penllergaer, Swansea, SA4 9HJ	
E-mail address	sarah.edwards@persimmonhomes.com	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input checked="" type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: As long as additional information can be submitted as and when required by the appeal.				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: LPAs and the appellant could indicate if they intend to submit a SoCG within a certain time period of the starting date.				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: There should be a time limit on changing the form of appeal and an extension of time to determine the appeal to allow both the LPA and the appellant time to react to the change.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Discretion should be allowed on the word limit if there's a particularly technical issue that has been identified.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Ongoing discussions are part of the SoCG process and are encouraged by PINS in that minor pieces of information are provided to the LPA, incorporated into the appeal and subsequently resolve an issue resulting in less work for the Inspector as one of the reasons for refusal has been dealt with.</p>				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: If the LPA and an appellant both agree to a change it could be allowed as long as it doesn't materially alter the original grounds for appeal.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Comments:

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	[REDACTED]	
Organisation	Isle of Anglesey County Council	
Address	[REDACTED]	
E-mail address	[REDACTED]	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Provided that there is adequate and fair opportunity to cover all issues.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: Welsh Ministers are publicly already publicly funded to carry out this function.				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Not convinced that including written representations is appropriate as the process may be open to abuse and there needs to be further consideration on the resource and cost implications for public bodies.</p>				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: The cost should be covered by central government and not passed on to Local Authorities .</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: See question 15 above.				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-g@wales.gsi.gov.uk

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Rhodri Davies	
Organisation	Bridgend Conty Borough Council	
Address	Civic Offices Angel Street Bridgend CF31 4WB	
E-mail address	rhodri.davies@bridgend.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>The procedural proposal will speed up the overall process and will avoid any new grounds being added to the case at a later stage, sometimes at a point where it is difficult or too late to rebut the additional grounds of appeal.</p>				

Q2	Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>This proposal will ensure consistency and understanding across all appeals and for all parties.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: It has not been evidenced that SoCG are of any benefit to either party or the Inspector. This approach is contrary to the general aspiration to streamline/simplify the process and is an added burden on LPAs where the main points of disagreement can be understood from the reasons for refusal and the grounds of appeal.				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: However, PINS should produce example scenarios where the mixed mode examination of appeals and call-ins could be adopted.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The word limit should be a suggested/recommended limit or guideline as, depending on the nature of the topic or request, it might not be feasible to produce a comprehensive/specialist response within that prescribed limit.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: If the specific circumstances, as listed in paragraph 2.74 of the consultation paper, occur after the determination of an application, it is considered that the applicant/appellant should re-apply for planning permission under the "free go" provisions.</p>				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Comments:
N.B. This question should refer to the circumstances in which "new information may be introduced during an appeal or call-in" as per the consultation document - as it stands, it repeats question 8.

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments: The principle of costs recovery is generally accepted. However, which body will be responsible for determining the application for an award of costs and will there be a mechanism to challenge any award of costs?				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>There should be provision in the guidance to penalise the abuse of procedure selection by the appellant. Currently, appellants claim that they are considering applying for costs in order to secure a Hearing rather than the Written Representations procedure.</p>				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>BCBC cannot support any extra costs to the taxpayer for carrying out statutory processes. Therefore, the daily amounts should not result in an unreasonable increase in the cost of undertaking a review of an LDP, for example.</p> <p>LPA's already pay for the Programme Officer and it is considered unreasonable and inequitable for Welsh Ministers and Inspectors to unilaterally set the terms and length of the process and then offload the costs elsewhere.</p> <p>All parties in the process need to be incentivised to make it more streamlined and efficient, both in terms of speed and costs, and the Standard Daily Amounts approach for all staff working on a particular inquiry or other qualifying procedure runs counter to this.</p> <p>Finally, the work expected of a Planning Officer, for example, in helping the Inspector with an Inquiry or other qualifying procedure should be factored in as part of his or her job description and general duties rather than being seen as a top up payment to the Welsh Government based on the time spent on a particular Inquiry or Examination.</p>				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>It is a good idea to clearly set out the standard daily amounts, provided that the figures do not result in an unreasonable increase in costs to be borne by the taxpayer and still promote efficiency across the service (refer to Q. 15 above).</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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How to Respond

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Email
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Post
<p>Please complete the consultation form and send it to:</p> <p>Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ</p>
Additional information
<p>If you have any queries on this consultation, please</p> <p>Email: planconsultations-g@wales.gsi.gov.uk</p> <p>Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)</p>

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Emyr Davies	
Organisation	Redrow Homes Ltd	
Address	Redrow House Copse Walk Cardiff Gate Business Park CF23 8RH	
E-mail address	emyr.davies@redrow.co.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

It appears that the purpose of the appellant having to submit a full statement of case with the appeal submission is down to "fairness" and whereby the appellant is possibly seen to raise significant matters in their full statement of case.

Redrow is concerned with the proposed change. The current system is fair whereby all parties produce the statement of case concurrently and are then given an opportunity to comment in the final 3 week statement. It is not only the case that the appellant could raise "significant matters in their full statement of case" but this could be equally true of the LPA or 3rd parties raising 'significant matters'. At the time the appeal is submitted then all information that was submitted and considered as part of the planning application is available for all to view and consider.

For appeals against non-determination it might well be the case that the full local planning authority concerns are not known and therefore it appears impractical for a statement of case to be submitted upon submission.

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

This should not limit the ability to submit further documents, materials and evidence with the final 3 week statement.

Q3	Do you agree with our proposals to enable the	Yes		No
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Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?		Yes (subject to further comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments				

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: The statement of case by both parties is a core document and Redrow believe that they should be produced at the same time to then allow review of these documents by either party and any other 3 rd parties. The 3 week statement should remain as an appropriate timescale for responding to the statement of case. This timescale is 15 working days and in a practical sense (holidays, other job commitments) then should remain to allow all parties (with their consultant teams) to consider and respond within the 3 weeks.				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
Redrow would recommend that some flexible wording is added such as unless a particularly complex appeal and/or whereby Inspector accepts a greater word limit.				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

Consultation Reference: WG28856

Redrow believes that Inspector's discretion and the 'Wheatcroft' judgement are wholly appropriate and important aspects of the appeal system that must remain. Removal of this efficient approach could burden the appeal system in spending time and using resources that could be avoided by maintaining the ability to make changes.

Minor changes can often be made and agreed between parties in a statement of common ground. The inability to do this could potentially mean that an Inspector is forced to refuse an application on a relatively minor point and force the applicant to re-submit for planning permission. This scenario, and potential others, would result in a greater time in gaining a planning permission to start a development and would appear to be the complete opposite of what this consultation is intending to achieve.

Redrow's recent experience at an inquiry meant that an Inspector allowed changes to the appeal on the basis that a second application for the site had been submitted and consulted on by the local planning authority. In this case the local planning authority did not object to the introduction of the changes and any 3rd party was not prejudiced. This is an efficient way of dealing with matters and should remain on a case by case basis and the discretion of the Inspector.

This proposed change is likely to be counter productive to good planning and common sense resulting in longer overall timescales to get a planning permission.

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:
 These comments are made against Q9 as written in the consultation and not as worded above.

Redrow accept the two circumstances listed but do not agree to these being the only circumstances. For example, a local planning authority sometimes have what they believe to be an in-principle concern with a proposal. They can therefore refuse the application swiftly for an in-principle reason but in assessing an application notice some matters that could be overcome with relatively minor amends/new information but just add these matters as further reasons for refusal. The point here though is that the local planning authority could have raised these matters when they considered the application but often don't because they know they are going to refuse the application.

Currently the 'lesser' reasons for refusal are often overcome through a

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

statement of common ground and agreeing new information/an amendment. Again, this is a practical and efficient way of dealing with such matters and the proposals would remove the ability to do this. In such a circumstance it would place an Inspector in a situation of being able to make a decision on the main issue of the appeal but then have no ability to address the 'lesser' reasons for refusal (even with all parties at the Inquiry being happy with a minor variation to the appeal presented).

Negotiating and agreeing away 'lesser' reasons for refusal should be encouraged especially when in an Inquiry situation. From Redrow's experience this is always favoured by the appointed Inspector and by the local planning authority. For an inquiry it ultimately results in reducing Inquiry time.

Q10	<p>Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?</p>	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: No comment</p>				

3.0 Costs

Q11	<p>Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?</p>	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: No comment</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment				
Other overall comments:				
<p>Redrow does not want to see a situation whereby there is some improvement in the speed of an appeal decision on the basis that it is more likely to be a fast refusal.</p> <p>This consultation sets out that it intends to make the appeal system "more proportionate, cost effective and streamlined process which meets the needs of all parties; ...and increase the speed of decisions, thereby promoting growth and providing greater certainty for developers and communities". The concerns expressed by Redrow above would appear to result in a situation whereby the opposite could be achieved.</p> <p>In terms of timescales, it would appear that the proposed changes save 3 weeks (2 weeks with the statement of case proposed changes and 1 week for the final</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

statement changes) in an anticipated 26 week process (as set out in annex A of the consultation). In reality this is not the step change required to promote growth and get development off the ground. Redrow has raised concern with these two changes that result in an insignificant reduction of time over a current process that can take up to 52 weeks.

Redrow supports the 7 day validation period (as shown in the flow diagram in annex A) from the appeal submission but suggests that this is mandatory as with LPA validation requirements. Redrow's current experiences are that an appeal takes 6 weeks to validate.

At the other end of the flow diagram in annex A it finishes with a decision or a recommendation to the Welsh Ministers. In relation to the latter this is currently an undefined timescale and this has significant impact in terms of "providing certainty for developers" (as stated in the intentions for this consultation).

Redrow would urge a timescale for Welsh Ministers to make a decision following the issue of an Inspectors recommendation to be stipulated. A maximum of an 8 week period (to align with the Inspector's timescale for assessment and report writing) would appear appropriate from receipt of the Inspector's recommendation. The appellant should also be notified when the Inspector's recommendation is passed to the Welsh Ministers.

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-q@wales.gsi.gov.uk

[Please include '**Appeals, costs and standard daily amounts**' in the subject line]

Post

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Eleri Davies	
Organisation	Innogy Renewables UK Ltd	
Address	Baglan Bay Innovation Centre Central Avenue Baglan Energy Park Port Talbot SA12 7AX	
E-mail address	eleri.davies@innogy.com	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input checked="" type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Providing the full Statement of Case (SoC) at the time of lodging the appeal will streamline the process, this does raise issues of fairness.</p> <p>In cases of an appeal against non-determination, whilst both parties may be aware of matters in dispute, the appellant will not be aware of the LPA's formal view on an application. The full SoC can still be made reiterating why planning permission should be granted (taking account of any consultation responses received) and why the LPA has what it needs to make a determination. Late consultation responses, and responding to the LPA putative reasons for refusal can come later either through an update to the SoC or in evidence.</p> <p>The level of information available to applicants will depend on the stage at which the Welsh Ministers issue a call-in and they may or may not have received comments from the LPA, statutory consultees and/or other interested parties at this stage to be able to prepare a comprehensive SoC. As with an appeal against non-determination, late consultation responses etc may come later in the process either through an update to the SoC or in evidence.</p> <p>The full SoC is defined in paragraph 2.10 of the consultation document as "a written statement which contains full particulars of the case and all the matters which a person proposes to raise and copies of any documents, materials and evidence they intend to rely on in evidence". In the case of an appeal against non-determination or a call in, it is difficult to see how an appellant will have all of the information they intend to rely on in evidence at the point where they are required to submit their full SoC.</p>				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Comments:
The definition of a full SoC, i.e. requiring copies of all documents to be relied upon, makes the process unreasonable. The ‘traditional’ definition required appellants to provide a full statement of their case and a list of documents to which they intend to refer - the list can be made very extensive to cover all eventualities (and some ‘catch-all’s such as ‘relevant National Policy Statements and documents’) in a way that isn’t possible if copies of all documents have to be provided at that very early stage. The requirement to provide copies of documents at this stage to be removed.

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
innogy agrees with the proposal to align the procedures for all appeals and call-ins and for these to be contained in a single consolidated set of Regulations.

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
innogy agrees with the proposal for the LPA to submit a completed questionnaire and inform interested parties within 5 working days of the start date; for LPAs and other interested parties to submit their representations within 4 weeks of the start date; and for all parties to submit comments on other parties' statements within 6 weeks.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments.				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: innogy agrees that the ability to use multiple procedures offers greater flexibility and enables procedures to be tailored to the case. The multiple procedures approach has worked well in the context of Development Consent Order applications under the Planning Act 2008 and encourages the most efficient and proportionate use of time and resources.				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>innogy agrees with the proposal to give Inspectors the discretionary ability to require the submission of further evidence (limited to 3,000 words) on certain issues/matters following the initial process of submitting SoCs and final comments. In many cases, this would avoid the need for a hearing or inquiry and, again, encourages the most efficient and proportionate use of time and resources.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

The ability to make changes to a proposal subsequent to the appeal is a very important mechanism for dealing with reasons for refusal or late objections from statutory consultees. If this ability is removed as a matter of principle, appellants would be unable to respond by amendment (or even further survey or environmental information) to objections raised by the LPA in their refusal or statutory consultees in late objections.

The use of Wheatcroft is long established and useful to appellants and should not be given up lightly.

Precluding new information (especially environmental information) from being considered risks legal challenge for EIA developments, since the decision-maker is legally obliged to take into account all relevant environmental information when making a planning decision on an EIA project.

There may be good reasons why it might be in the public interest to allow changes to a scheme at the appeal stage:

- a) it ensures that the appellant has the ability to put the best possible scheme (in terms of acceptability) before the decision-maker;
- b) it enables an appellant to respond to criticisms that may have only arisen at the time of determination, maybe during the determination meeting itself, without incurring the delay and cost of requiring a whole new application;
- c) if, as a result of the changes, the LPA wishes to change its stance and support the application they can indicate as such and play no part in the appeal process;
- d) it is not clear why an applicant would deliberately withhold information helpful to its application until the appeal stage but, in any event, the costs procedures can be used to address any instances of unreasonable behaviour.

The substantive point to be addressed here is the question of transparency and

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

consultation on any changes that the decision-maker may accept as being reasonable in the circumstances. This could be addressed by giving the decision-maker the power to require any such changes to be advertised by the appellant as they did for the original application and to place the revised details on deposit. In the case of public inquiries, at present everyone who has expressed an interest in the application will be notified of the public inquiry. It would be simple for that letter (or a second communication to the same mailing list) to refer to any changes and state where further details are available.

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
The comments made against Q8 above also apply to Q9.

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
No comments.

3.0 Costs

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: innogy agrees that the Welsh Ministers and/or PINS Wales should be able to recover their costs, either in full or in part, where unreasonable behaviour has occurred and led to unnecessary or wasted expenditure.</p>				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: No comments.</p>				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: No comments.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments: No comments.				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments.				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comments.				

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
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Appeals, cost and standard daily amounts

Consultation Reference: WG28856

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-g@wales.gsi.gov.uk Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Justina Moss	
Organisation	Vale of Glamorgan Council	
Address	Dock Office, Barry dock, Barry. CF63 4RT	
E-mail address	jmoss@valeofglamorgan.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: This proposed change is welcomed				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: This proposed change is welcomed				

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>It is noted that the proposal is to reduce the period for the completion of the LPA appeal questionnaire and notification of interested parties from 2 weeks to 5 working days. Whilst the Council understand the reasons for this proposal, this Council would strongly object to this change. This Council have struggled to adjust its methods of working to prepare the HAS and CAS questionnaires within 5 working days, but it has achieved the deadline mostly due to the associated applications being fairly simple submissions with very few representations being made resulting in fairly small files. Even with good file management it is difficult for this Council’s officers to extract the necessary information from larger application files and to prepare and send out large batches of third party consultations letters. With decreasing staff numbers and no real changes to workload, this proposed change will put even more pressure on an already stretched service and it is envisaged that the 5 day working deadline will be regularly missed, for which we understand that there will be a penalty. In this Council’s view the change proposed will place an additional unnecessary burden for the sake of saving only 5 working days from the appeal process. If there is still an intention to reduce the time period for appeal questionnaire submission, could a longer period than 5 working days please be considered?</p> <p>I would add that this Council has found further difficulty with the 5 working day deadline for HAS and CAAS appeals when such appeals are started and notification of the start date is received towards the end of a working day. This has, effectively, reduced the period for the preparation of the questionnaire and consultation letters to 4 full days, instead of 5. A change in PINS working practices is called for to ensure that all CAS and HAS appeals are started and notification is sent to the PLA at the start of the first day.</p> <p>With regard to the proposal to reduce the period of time for the submission of the LPA’s full statement of case and third Party representations, this Council would object again for the reasons outlined above in terms of reducing resources and increasing pressure in LPA staff. Again, if there is still an intention to reduce the time period for appeal questionnaire submission, could a longer period than 4 weeks please be considered?</p> <p>The Council do not object to any of the other changes proposed.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: This proposed change is welcomed</p>				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: This proposed change is welcomed and will save both LPA and Appellant's time and expense.</p>				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: Yes, the cahnge is welcomed and clarity with regard to the extent of accepted changes is also welcomed.</p>				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: I think there is an error in the above question 9 as question 9 in the consultation document refers to 'new information' and not 'varied' applications. The cahnge with regard to new inforamtion is welcomed and clarity with regard to the extent of accepted new inforamtion is also welcomed.</p>				

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 This Council’s officers find the existing costs circular particularly difficult guidance to use. This would also be the case for unrepresented appellants. A simplification and more user friendly guidance on costs would be welcomed.

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:
 I agree with the proposal on the basis of daily standard amounts for officer time and not total daily standard amounts. This would still allow the LPA or appellant to also seek costs of any legal representation for which a standard daily amount cannot, of course, be applied.

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

			comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Yes these are welcomed.				

I do not want my name/or address published with my response (please tick) <input type="checkbox"/>
--

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post
Please complete the consultation form and send it to: Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ
Additional information
If you have any queries on this consultation, please Email: planconsultations-g@wales.gsi.gov.uk Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)



WG28856-019

PENARTH TOWN COUNCIL CYNGOR TREF PENARTH

Emma Boylan,
Town Clerk/Clerc Y Dref

West House, Stanwell Road, Penarth CF64 2YG
Ty'r Gorllewin, Heol Stanwell, Penarth CF64 2YG
Tel/Ffôn: (029)2070 0721 Fax/Ffacs:(029) 2071 2574
E-Mail/E-Bost:enquiries@penarthtowncouncil.gov.uk
www.penarthtowncouncil.gov.uk

Please ask for/Cysyllter â; E-mail/E-bost

My Ref/Cyf:

Your Ref/Eich Cyf:

Lewis Thomas/Owain Williams
Divisions Branch
Planning Division
Welsh Government
Appeals, Costs and Standard Daily Amounts Consultation
Cathays Park
Cardiff
CF10 3NQ

4th November 2016

Dear Sirs

Appeals, Costs and Standard Daily Amounts Consultation

Further to this consultation and the deadline for responses, today.

Penarth Town Council would like to make contribution to the consultation and respond as follows: -

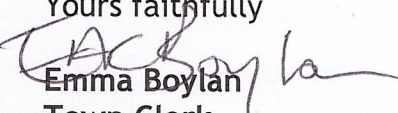
“Town and Community Councils are consultees in the Planning Process and in this context may be contacted as interested parties particularly if they have made comments concerning the subject planning application.

It is noted that in para 1.8 these proposals are intended inter alia to:

Increase transparency through better communication and exchange of information among all parties to promote public participation and public confidence in the appeal process.

While LPAs will be more experienced and organised in terms of responding, consideration should be given to the position of the town and Community Council Sector, who may be inexperienced and unfamiliar with procedures and requirements and who may find difficulty in meeting the shorter deadlines.”

Yours faithfully


Emma Boylan
Town Clerk

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Duncan Neish	
Organisation	The Law Society	
Address	113 Chancery Lane, London WC2A 1PL and Capital Tower, Greyfriars Road, Cardiff CF10 3AG	
E-mail address	duncan.neish@lawsociety.org.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We believe the definition needs slight clarification with the additional text underlined: "... and all matters which a person proposes to raise and refers to copies of any documents, materials ..."</p>				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

please specify alternative or additional grounds.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>			

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>We agree.</p>				

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p>				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

			further comment)	
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: We agree.				

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
Please complete the consultation form and send it to : planconsultations-g@wales.gsi.gov.uk [Please include ' Appeals, costs and standard daily amounts ' in the subject line]
Post

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Consultation Reference: WG28856

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	Mark Harris	
Organisation	Home Builders Federation	
Address	PO Box 201 Barry CF639FA	
E-mail address	mark.harris@hbf.co.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input checked="" type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments:</p> <p>The HBF are concerned that this will actually put the applicant at a disadvantage and will not really 'significantly decrease' the time taken as suggested by the consultation. We do not agree that this a 'fairness' issues as suggested as it put one side at a disadvantage. All appeals are effectively a debate over whether or not a development is acceptable and are more often than not based on the reason for refusal (different in appeals against non-determination). Therefore it is clear from the start of the appeal what the mains issues to be discussed are.</p> <p>The current system is fair whereby all parties produce the statement of case concurrently and are then given an opportunity to comment in the final 3 week statement.</p> <p>For appeals against non-determination it might well be the case that the full local planning authority concerns are not known and therefore it appears impractical for a statement of case to be submitted upon submission.</p>				

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>However this should not preclude the submission of further information which becomes necessary as the appeal proceeds.</p>				

Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the	Yes	Yes	No
-----------	--	-----	-----	----

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?		(subject to further comment)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: No comment.</p>				

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Comments: The statement of case by both parties is a core document and HBF believe that they should be produced at the same time to then allow review of these documents by either party and any other 3rd parties.</p> <p>The 3 weeks (15 working days) should remain as an appropriate timescale for responding to the statement of case.</p>				

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: The HBF believe that the SoCG can help to reduce the time taken at appeal as it can help to resolve issues in advance of the formal proceedings. As they are not required in all cases it is agreed that there does not need to be a statutory requirement for one. However the HBF would suggest that it could be made a statutory requirement for a statement by both parties as to whether or not they intend to submit a SoCG, if this is imposed it should have a deadline.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 However a time limit in which the decision to change the form of the inquiry should be stipulated and where a change is made a reasonable time extension for an appellants to react/prepare to such a change be provided.

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:
 The HBF would suggest that the Inspector should be allowed the discretion to allow a greater number of words if a particularly difficult/technical issue is identified on which a further submission is required.

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

The HBF object strongly to this proposal as it will result in the loss of an important part of the current appeal process. We believe this is an area of the current appeal system that doesn't causes particular delay, so such a change is not critical to the speeding up the appeal process which we support and is achieved by other proposed changes within this consultation.

The principle of allowing additional information to be submitted during an appeal is demonstrated by the "Wheatcroft Principle" (Weatcroft v SoS) this allows new information to be submitted to applications or appeals or indeed Development Consent Orders (see below) subject to ensuring that the scheme is not substantially different from that which was applied for.

Within the DCO process the Inspectorate allow changes and new information to be presented to Inquiries, see <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/07/Advice-note-16.pdf> within this the merits and benefits of having some flexibility to allow matters to be addressed to narrow areas of dispute are recognised (see paragraphs 1.2 and 1.3).

HBF members have advised that within the current appeal process they often have ongoing discussions as part of the SoCG process, specifically encouraged by PINs, whereby minor pieces of new information are provided to the LPA to resolve matters and are then incorporated into the appeal. This often result in less issues having to be considered by the Inspector and reduces the time spent at inquiry or on the appeal, thereby speeding up of the appeal process.

More major changes can also be introduce to the appeal through submission of a second planning application, this allows any changes to be considered by all parties who will have a right to make comment on them as part of the normal planning application process. This second application can often result in a reduction in the number of reasons for refusal (matters for the inspector to consider) and the inspector can be comfortable that they have been openly consulted on. It is still down to the discretion of the Inspector as to whether or not he accepts these changes and considers them in reaching his decision. Although the use of a second application is outside of the appeal process there still needs to be the flexibility within the appeal system to allow for changes to be made to the appeal resulting from the second application.

The HBF consider that such an approach is unlikely to result in the appeal taking any longer to determine in fact the opposite. Due to the time it normally takes between the appeal being registered and an inquiry date being set, there is enough time for the second planning application to be consulted on and considered by the LPA even if a decision is not reached. Again it is at the discretion of the Inspector as to whether or not he accepts these changes and considers them in reaching his decision. Members advise that such an approach has been used a number of times and the Inspectors have not seen this as a breach of the Wheatcroft Principle or prejudicial to any third party.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Comments:

Although the HBF have no objections to the two circumstances listed in the consultation we consider that other changes could be allowed to be made without affecting the substance of the appeal or prejudicing any of the parties. We would accordingly suggest a third circumstance to allow the flexibility that if a change is agreed between the appellant and the LPA, that this should also be allowed to be included in the appeal.

Negotiating and agreeing away 'lesser' reasons for refusal should be encouraged especially when in an Inquiry situation. From Members experience this is always favoured by the appointed Inspector and by the local planning authority. For an inquiry it ultimately results in reducing Inquiry time..

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

No comment.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: No comment.				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments: Additional comments not covered by the questions above.				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

HBF supports the 7 day validation period (as shown in the flow diagram in annex A) from the appeal submission but suggests that this is mandatory as with LPA validation requirement.

The flow diagram in annex A it finishes with a decision or a recommendation to the Welsh Ministers. In relation to the latter this is currently an undefined timescale and this has significant impact in terms of "providing certainty for developers" (as stated in the intensions for this consultation). We would urge a timescale for Welsh Ministers to make a decision following the issue of an Inspectors recommendation also be stipulated.

I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email

Please complete the consultation form and send it to :

planconsultations-g@wales.gsi.gov.uk

[Please include '**Appeals, costs and standard daily amounts**' in the subject line]

Post

Please complete the consultation form and send it to:

**Appeals, costs and standard daily amounts consultation
Decisions Branch
Planning Division
Welsh Government
Cathays Park
Cardiff
CF10 3NQ**

Additional information

If you have any queries on this consultation, please

Email: planconsultations-g@wales.gsi.gov.uk

Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING STRATEGY GROUP**
DATE: **THURSDAY, 3 NOVEMBER 2016**
REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**
SUBJECT: **APPEALS, COSTS AND STANDARD DAILY AMOUNTS**

1.00 **PURPOSE OF REPORT**

To advise members of the current Welsh Government Consultation Document regarding appeals, costs and standard daily amounts. The report highlights implications regarding procedural changes and cost increases.

2.00 **BACKGROUND**

Appeals and development plan examinations form an important part of the planning system. The Planning Inspectorate Wales (PINS) is a publically funded joint executive agency. Planning appeals and applications which are referred for determination by the Welsh Ministers (call-ins) are administered by PINS on behalf of the Welsh Ministers, with the majority of cases decided by an Inspector. A small number of cases are recovered by Welsh Ministers for their decision. The current arrangements allow public involvement and a high standard of decision-making based on the principles of openness, fairness and impartiality.

In December 2013, the Welsh Government published a 'Positive Planning' consultation paper, which contained a series of proposals for reforms to the planning system in Wales.

The following changes have already taken place;

- Welsh Ministers or an appointed person are able to determine the method by which an appeal is to be conducted.
- Applications to be referred back to the LPA in the case of appeals against non-determination of applications, within a specified time period.
- Removal of time limit restricting the right of appeal on the grounds of non-determination.
- Introduction of an expedited process for determining householder and commercial appeals.
- Expediting the appeal procedure for specialist appeals.

There is pressure from professionals and developers seeking swifter decisions to improve the system to provide necessary sustainable development and stimulate economic growth.

3.00 CONSIDERATIONS

The proposals contained within the consultation document cover the following areas;

Appeal and call-in procedures

- Requirement the submission of a full statement of case to be submitted by appellant at the outset of all planning and enforcement appeals;
- Require earlier stage of submission of responses by LPA's and third parties;
- Changes to how statements of common ground are handled;
- 6 month time cut off after applications, including certificates of lawfulness are determined;
- Unlimited amount of time for appellant to compile a full statement of case to supplement their appeal in relation to appeals for non-determination;
- Enforcement appeals must be submitted prior to the effective date of an enforcement notice(usually 28 days);
- Appeals against notice must be submitted with a statement specifying the grounds on which the appeal is being brought and stating the facts on which the appellant proposes to rely in support of each of those grounds;
- Ground A (consent ought of have been granted) enforcement appeals the appeal will not be valid until the LPA has received the fee in full;
- Applicant will have a 4 week opportunity to submit a full statement of case to PINS following the issue of a call-in notice of referral. If this is not submitted it will not delay the process. The LPA will also have to submit all documentation in this period.
- LPA's will be required to submit a complete questionnaire and inform the interested parties about the appeal within 5 working days of the starting date. This is currently 14 days.
- LPA's and interested parties must submit representations within 4 weeks of the starting date of the appeal. This is currently 6 weeks.
- LPA's, interested parties and the appellant must submit final comments within 6 weeks of the starting date of the appeal. This is currently 9 weeks.

Costs

- Ability to apply for an award of costs where appeals are considered on the basis of written representations;
- Applications must be made by appellants upon notice or the appeal or within 4 weeks or call-in. By LPAs or 3rd parties

within 4 weeks of the start date of proceedings;

- Inspectors can initiate an awards of costs even if no parties applied;
- Extending the costs regime to appeals, call-ins and applications made directly to the Welsh Ministers (poorly performing LPAs) which are determined by way of written representation;
- Update costs guidance; and
- Enable cost recovery incurred by the Welsh Ministers, where wasted and unnecessary cost to the public purse is incurred.

Standard daily amounts for certain proceedings

- Update to the current daily amounts which were set in 2012; and
- The Inspectorate will charge general staff costs separately to more accurately reflect the variable time taken by officers when dealing with examinations and inquiries.

The consultation document set a number of questions which are addressed in turn below;

Q1: Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?

We agree with the proposals and consider that the LPA and all third parties will benefit from the earliest disclosure of the appellants case. A single consolidated set of regulations will assist all parties in correctly administering the appeal process, further reducing delays.

Q2: Do you agree with the definition of ‘full statement of case’ in paragraph 2.10? If not, why not?

The definition of a written statement is set out as follows ‘*which contains full particulars of the case and all the matters which a person proposes to raise and copies of any documents, materials and evidence they intend to rely on in evidence*’. This accurately captures the basis of what the appellant should be setting out as this stage. We acknowledge these statements do not replace proof of evidences in relation to public inquiries.

In order for the developer, LPA and third parties to truly benefit from a speedier appeal process the Inspector must be robust in enforcing the principle that no further matters cannot be raised nor any further documents, materials or evidence which would undermine the original statement accepted by the Inspectorate as the appeal process progresses. Are PINS certain and confident that this approach can be lawfully implemented?

Q3: Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?

We agree with the principal to align the current three sets of regulations which define the 'relevant date'. The proposed single definition will be the date on which the full information required to entertain the appeal or call-in together with any fee required to be paid is received.

We also agree that the procedure for determining appeals against a S215 notice of the Town and Country Planning Act is appropriately transferred to the Welsh Ministers from the Magistrates.

Q4: Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?

The proposals relating to changes to the initial procedures by reducing the time allowed to submit the questionnaire, submit representations and then final comments will put further pressure on LPA's and third parties to quickly respond. By taking weeks out of the stages of the process it will speed up the submission of documents. However, LPA's are increasing poorly resourced and this leads to a lack of planners and support staff who are about to meet the demands. Although the submission of documents may be swifter there may be a reduction in quality and robustness. PINS may experience an increased burden chasing matters such as non-submission of relevant policies or Directions.

In order for the developer, LPA and third parties to truly benefit from a quicker appeal process PINS must be resourced with sufficient administration staff and Inspectors to maintain the expedited system.

Q5: Do you agree with our proposal regarding Statements of Common Ground (SoGG)? If no, why not?

We agree that the principle of not setting a statutory deadline for the submission of a SoGG for the purposes of appeals and called-in applications. We support that it will be encouraged to submit a SoGG where all parties agree, even in relation to written representation and appeals dealt with by Hearing.

Q6: Do you agree with our proposal for the mixed-mode examination of appeals and call-ins? If not, why not?

We have some concerns regarding the mixed mode examination of appeals and call-ins.

We totally support the principle that the default procedure for all appeals and called in applications is written representations. We have most serious concerns regarding the criteria set out in Annex B of the consultation document does not align the proposals set out in part 3 of the consultation document. The criteria indicates that if there is an application for costs the appeal could not be appropriately dealt with by written representations. We consider that many applications for costs are very straight forward and could easily be dealt with by written representation. In England the process has worked successfully for some time and with clear and amended guidance we do not understand why PINS Wales would not consider the same approach? This would truly deliver a speeded up appeal process by ensuring straightforward appeals do not unnecessarily become examined through a costly, lengthy hearing.

With regards to Mixed Mode Examination we consider the Inspector already has sufficient provision within the Hearings and Inquiries procedures to define the relevant parts of the appeal which will be examined orally through either procedure. We have concerned that there will be extra administration costs and possible delays dual to increased administration of dealing with a mixed process. Although we acknowledge that there may be certain central stages, such as same relevant date, same start date, same questionnaire deadline it may be difficult to advise interested parties of the two separates routes the appeal on the same site may be taking.

We consider the mixed mode process may lend itself to Nationally Significantly development which is more acceptably categorised by interested parties due to its scale.

Q7: Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be subject to a word-limit of 3,000 words per topic? If not, why not?

We agree the limit of 3,000 words per topic is acceptable.

Q8: Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?

We agree with the circumstances in which the application may be varied, in relation to matters which could not have been previously raised and a consequence of exceptional circumstances.

Q9: Do you agree with the circumstances in which an application may be varied in the case of an appeal or call-in? If not, why not?

As above.

Q10: Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?

We agree with the introduction of the 6 month time limit.

Q11: Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?

We agree with this provision to assist in the avoidance the submission of spurious appeals.

Q12: Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.

We agree with this guidance and consider it is comprehensive and helpful for all parties.

Q13: Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?

We agree with the process set out in Annex C for the award of costs and consider that any application for costs should be submitted with the written statement with regard to a written representation appeal. We accept the Hearings and Inquiries procedures may retain provision to allow a later application of costs after evidence has been examined but this should be the exception, not the rule.

Q14: Should any additional information be included within the draft updated guidance (at Annex C)?

We do not consider that any further guidance should be added.

Q15: Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?

We agree with the principle that Inspector, Planning Officer and general staff costs are charged separately and accurately. We also agree that the same standard daily amount for Inspectors will apply to both qualifying procedures and local inquiries.

Q16: Do you agree with the proposed standard daily amounts at Annex D? If not, why not?

We agree with the increased standard daily amounts as set out in annex D of the consultation document.

4.00 RECOMMENDATIONS

That members note the contents of this report and agree the Council's response to the consultation.

5.00 FINANCIAL IMPLICATIONS

No direct implications. However, some of the changes in procedures may result in less officer time spent in more lengthy and therefore costly hearing or inquiry processes.

6.00 ANTI POVERTY IMPACT

None

7.00 ENVIRONMENTAL IMPACT

An improved appeal process will help the Council deliver the sustainable objectives of the Unitary Development Plan and Planning Policy Wales.

8.00 EQUALITIES IMPACT

The Welsh Inspectorate offer a fully accessible Welsh Language service.

9.00 PERSONNEL IMPLICATIONS

None.

10.00 CONSULTATION REQUIRED

None.

11.00 CONSULTATION UNDERTAKEN

The report to Planning Strategy Group.

12.00 APPENDICES

None.

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS

Contact Officer: Mandy Lewis
Telephone: 01352 703248
Email: mandy.lewis@flintshire.gov.uk

Appeals, costs and standard daily amounts		
Date of consultation period: 10 August 2016 – 4 November 2016		
Name	NICOLA PEARCE	
Organisation	NEATH PORT TALBOT CBC	
Address	THE QUAYS, BRUNEL WAY, NEATH SA11 2GG	
E-mail address	n.pearce@npt.gov.uk	
Type <i>(please select one from the following)</i>	Businesses/Planning Consultants	<input type="checkbox"/>
	Local Planning Authority	<input checked="" type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies/Interest Groups	<input type="checkbox"/>
	Voluntary sector (community groups, volunteers, self help groups, co-operatives, social enterprises, religious, and not for profit organisations)	<input type="checkbox"/>
	Other (other groups not listed above) or individual	<input type="checkbox"/>

2.0 Appeal and call-in procedures

Q1	Do you agree with our procedural proposals regarding full statements of case to be submitted with an appeal in most circumstances? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

In practice for LPAs this is a good idea and is supported. It is considered, however, that clarity may be required in respect of those cases to be heard at Inquiry where 'written statements of evidence' (WSoE) will be produced. In such cases, it is assumed that WSoE from all parties would still be required in advance of the PLI rather than at submission stage. The critical point is to ensure that an appellant 's Statement of Case (e.g. a Rule 6 / 8 statement currently) is sufficiently detailed to confirm the nature of "all evidence they intend to rely on" in their WSoE so that there are no surprises.

It is also noted that, in those cases where PINS were to consider a request for a PLI to be unnecessary, an appellant may choose to submit significantly more 'evidence' at the start, than if they believed they could submit a WSoE later on in the process - this needs clarification.

Also, in the event an Inquiry is required by PINS (but not sought by appellants - for example an enforcement appeal), there is a need to address at what stage such 'evidence' should be provided if it is not part of their original submissions.

Q2	Do you agree with the definition of 'full statement of case' in paragraph 2.10? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Comments:

It is considered that the definition is sound, but as referred to above, clarity may be required in respect of differences (if they are intended) between appeals heard at Inquiry c.f. all other methods.

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q3	Do you agree with our proposals to enable the Welsh Ministers (or PINS) to determine the procedure for and make decisions on appeals against hazardous substances contravention notices and appeals against notices requiring the proper maintenance of land? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<p>Comments:</p>

Q4	Do you agree with our proposals relating to changes to initial procedure and submission of core documents by parties? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<p>Comments:</p> <p>Although the paper states that "LPAs routinely complete the questionnaire and inform interested parties well inside the two week timeframe" there is concern that imposing a strict 5 working days for questionnaire responses could place an unreasonable burden on LPAs who are already stretched resource-wise (in NPT Officers undertake all their own appeal admin work rather than have a dedicated support officer).</p> <p>If the appellants have already submitted their Statement of Case (SoC) , it also seems that the only benefit of submitting a questionnaire earlier is for PINS to inform their choice of appeal method. It is respectfully considered, however, that the appellants SoC should already include sufficient detail to make such an inferred decision and, if not, initial contact should be made with the LPA at the earliest opportunity requiring our views on the method.</p> <p>Again, the 4 weeks for LPA statements and 3rd party reps could create some problems BUT we accept that in the interests of streamlining the appeals process, and given that the appellants SoC will be provided, the reduced period</p>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

would strike an appropriate balance. HOWEVER, some caution is offered in respect of non-determination appeals , which inevitably require a 'stance' report to be produced first, and occasionally with the need to report to committee, which could mean the 4 week deadline is difficult to achieve.

Q5	Do you agree with our proposals regarding Statements of Common Ground? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q6	Do you agree with our proposals for the mixed-mode examination of appeals and call-ins? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

Q7	Do you agree that further representations requested by the Inspector as part of the examination of an appeal or call-in should be	Yes	Yes (subject to	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

	subject to a word-limit of 3,000 words per topic? If not, why not?		further comment)	
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments: provided some flexibility is offered on request for especially complex matters/ topics</p>				

Q8	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p>				

Q9	Do you agree with the circumstances in which an application may be varied in the case of an appeal? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments: q9 text above incorrect -</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

Q10	Do you agree with our proposals to introduce a 6 month time limit for certificate of lawfulness appeals against a decision by a LPA? If not, why not?	Yes	Yes (subject to further comment)	No
		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comments:				

3.0 Costs

Q11	Do you agree that Welsh Ministers should be able to recover their own costs? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>A qualified 'yes': it is accepted that there are occasions when unreasonable behaviour will result in unnecessary or wasted expense to the public purse. However, it is also the case that LPAs are also public bodies who operate under very tight financial pressures . It is therefore considered that an award against an LPA to include PINS costs should only be made in exceptional cases, and should not always follow from an award of costs to an appellant.</p>				

Q12	Do you agree with the grounds for unreasonable behaviour specified within the draft updated guidance (at Annex C)? If not, please specify alternative or additional grounds.	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>para 2.5 refers to "no reasonable prospect of succeeding" in the paragraph preceding potential unreasonable behaviour. This is not considered appropriate, since "no reasonable prospect of success" should constitute a ground in itself (as it currently does), with the bullet points underneath capable of being considered</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

separately as unreasonable behaviour unrelated to 'no prospect' cases. as written it is considered that successful costs on substantive grounds would be very difficult to prove, to the detriment of the appeals costs process.

There is considerable concern that "Failure to determine an application within the statutory time limits, where it is clear that there was no substantive reason to justify delaying the determination of the application" should constitute a ground for an award of costs. Similarly for cases "where an enforcement appeal could have been avoided due to inadequate investigation or insufficient communication on the part of the local planning authority" . LPAs do not purposely 'delay' applications, and it is considered that this could be counter-productive in actually encouraging appeals.

It is not considered that "requiring the appellant or applicant to enter into a planning obligation which does not accord with the law or relevant policy" should in itself be a ground for unreasonable behaviour, provided the LPA has sought to justify the reasons for making such a request (even if they are unsuccessful in convincing an Inspector).

again, "refusing permission on a ground being capable of being dealt with by way of condition, where it is concluded that suitable conditions would enable the development to proceed" is not considered in itself to constitute unreasonable behaviour. Only in blatant cases where an LPA has refused to impose such a condition on request - without reasons - should it be a ground for costs.

note: Duplication of reference to conditions 'tests' in bullets 2 and 13 (conditions)

Q13	Do you agree with the process for the awards of costs set out in Appendix A of the draft updated guidance (at Annex C)? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>Comments:</p> <p>Costs awards initiated by PINS and 'for' PINS are to be heard by WG, but will the same process apply to decisions by Inspectors which also suggest unreasonable behaviour justifying PINS costs? would this mean that awards of PINS costs against LPAs would be less likely.</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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Q14	Should any additional information be included within the draft updated guidance (at Annex C)?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Comments:				

4.0 Standard Daily Amounts of Certain Proceedings

Q15	Do you agree with the amended method for charging daily amounts for local inquiries and qualifying procedures? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>The need for certainty of charges is essential, as is the need to ensure that the costs incurred are at all times reasonable and fairly related to the proceeding in question.</p>				

Q16	Do you agree with the proposed standard daily amounts at Annex D? If not, why not?	Yes	Yes (subject to further comment)	No
		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:				
<p>Provided they are robustly calculated to relate to the recovery of costs only</p>				

Appeals, cost and standard daily amounts

Consultation Reference: WG28856

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I do not want my name/or address published with my response (please tick)

How to Respond

Please submit your comments in any of the following ways:

Email
<p>Please complete the consultation form and send it to :</p> <p>planconsultations-g@wales.gsi.gov.uk</p> <p>[Please include 'Appeals, costs and standard daily amounts' in the subject line]</p>
Post
<p>Please complete the consultation form and send it to:</p> <p>Appeals, costs and standard daily amounts consultation Decisions Branch Planning Division Welsh Government Cathays Park Cardiff CF10 3NQ</p>
Additional information
<p>If you have any queries on this consultation, please</p> <p>Email: planconsultations-g@wales.gsi.gov.uk</p> <p>Telephone: Lewis Thomas (029 2082 3201) or Owain Williams (029 2082 1715)</p>