



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# Planning, Listed Building & Conservation Area Appeals





1. The appellant must ensure that we receive their planning, listed building consent or conservation area consent appeal within the time limit which is usually within **6 months** of the date of the notice of the local planning authority's (LPA) decision.
2. Only the person who made the application to the local planning authority has the right to appeal.
3. It is often helpful to discuss your proposal and the decision with your LPA before you send in your appeal.

#### 4. **Determining Procedure**

- 4.1. Most appeals are decided by the written representations method. With this method of appeal, the Inspector considers written evidence from the appellant, the LPA and anyone else has an interest in the appeal. The site is also likely to be inspected.
- 4.2. Under the Town and Country Planning (Determination of Procedure) (Wales) Order 2014, the Planning Inspectorate has the power to determine the most suitable procedure for an appeal. Please see **Appendix 01 of Procedural Guide Wales** for the criteria we apply.
- 4.3. The procedures are set out in the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017, specifically Part 4 (Written Representations). For further information on the procedures please see the **Annexe 02 Procedures**.

#### 5. **Planning Appeals**

- 5.1. Planning appeals are made under section 78 of the Town and Country Planning Act 1990.
- 5.2. Development which would be subject to this type of appeal includes building, engineering or other works, in, on, over or under land, or the making of any material change in the use of any buildings or other land.
- 5.3. Planning permission will also be necessary, in most cases, if there is a proposed change of use of buildings or other land.
- 5.4. Planning Appeals are made to us and may be made for the following reasons:
  - Refuse planning permission for the development;
  - Grant planning permission for the development subject to conditions to which you object;
  - Refuse approval of the matters reserved under an outline planning permission;
  - Grant approval of the matters reserved under an outline planning permission subject to conditions to which you object;

- Refuse to approve any matter required by a condition on a previous planning permission;
- The failure of the LPA to give its decision within the appropriate period (usually 8 weeks) on an application for permission or approval.

## 6. Dual Jurisdiction<sup>35</sup>

- 6.1. For planning appeals, where the appeal has been made against the failure of the LPA to make a decision on the application in the appropriate period, there is a period of 4 weeks from receipt of the appeal in which the LPA has the opportunity to continue to determine the application.
- 6.2. If the LPA subsequently make a decision before the end of the 4 week period to refuse the application: -
- the appeal must be treated as an appeal made against the refusal of planning permission;
  - the Planning Inspectorate must give the appellant an opportunity to revise their full statement of case;
- 6.3. If the LPA make a decision before the end of the 4 week period to grant the application subject to conditions The Planning Inspectorate will give the appellant the opportunity to: -
- proceed with the appeal as an appeal under section 78(1) against the grant of the application subject to conditions;
  - to revise their full statement of case.

## 7. Listed Building Consent Appeals

- 7.1. You will need to apply for listed building consent if either of the following cases apply:
- You want to demolish a listed building
  - You want to alter or extend a listed building in a manner which would affect its character as a building of special architectural or historic interest
- 7.2. A requirement for Listed Building Consent is in addition to any planning regulations which would normally apply. A development of this nature can also require planning permission.
- 7.3. Listed Building Consent Appeals are made to us and may be made for the following reasons:
- Refusal of listed building consent for the development
  - Granting of listed building consent for the development subject to conditions to which you object.
  - Refusal to vary a condition(s) in a previous grant of listed building consent

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<sup>35</sup> Article 9 - The Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended)

- Refusal to remove a condition(s) in a previous grant of listed building consent
- The failure of the LPA to give its decision within the appropriate period (usually 8 weeks) on an application for listed building consent.

## 8. Conservation Area Consent

- 8.1. You will need to apply for Conservation Area Consent if you want to Demolish an unlisted building or structure in a conservation area.
- 8.2. You do not need Conservation Area consent to demolish a building which does not exceed 115 m<sup>3</sup> or to take down a wall, gate or fence which is less than 1 m high where adjoining a highway, or less than 2 m high in all other places.
- 8.3. Conservation Area consent Appeals are made to us and may be made for the following reasons:
- Refusal of Conservation Area consent for the development
  - Granting of Conservation Area Consent for the development subject to conditions to which you object.
  - Refusal to vary a condition(s) in a previous grant of Conservation area consent
  - Refusal to remove a condition(s) in a previous grant of conservation area consent
  - The failure of the LPA to give its decision within the appropriate period (usually 8 weeks) on an application for conservation area consent.

## 9. What is considered?

- 9.1. Sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations
- 9.2. The purpose of planning is to ensure that decisions about development take into account the public interest. It does not exist to protect the purely private interests of one person against the activities of another. Neither is it intended to deal with matters covered by other legislation e.g. boundary disputes - which are covered by property law.
- 9.3. Planning issues can be wide-ranging, for example including the need to reduce travel by private car, promote the development of renewable energy resources, and take climate change impacts into account in the location and design of development. The LPA's reasons for refusing a planning application will usually set out the issues that apply.
- 9.4. The Inspector can only consider things that are relevant to planning, for example, the fact that a proposed new building may directly overlook someone's garden thereby harming the enjoyment of that

personal space or it may need a new access in a dangerous location that would be to road safety.

9.5. You can only raise planning issues about the proposal.

## 10. Environmental Impact Assessment (EIA)

10.1. Once an appeal has been submitted, a screening exercise is undertaken to assess whether the appeal should be accompanied by an EIA<sup>36</sup>. This is carried out by the Planning & Environment team of the Planning Inspectorate Wales, under the delegated powers of the Welsh Ministers, who will issue a Direction. This exercise must be completed before the timetable for the submission of evidence can begin.

10.2. If the appeal is already accompanied by an Environmental Statement (ES), an Inspector must assess the ES to check whether it meets the minimum requirements of the EIA Regulations<sup>37</sup>. This process can take 8 weeks, depending on Inspector availability. The ES must contain the necessary level of information specified in the Regulations in order for the application to proceed to determination.

10.3. The Inspector's conclusions on the ES merely relate to whether it contains sufficient detail to determine the application; an overall judgement on the adequacy of the ES can only be made by the appointed Inspector after all evidence relating to the application has been considered. As such, any initial conclusions on the completeness of the ES do not preclude the appointed Inspector from requesting further information at a later stage.

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<sup>36</sup> As required by the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 or Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, depending on the date of the application.

<sup>37</sup> As above.