



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# Environmental Permitting (England and Wales) Regulations 2010

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## Environmental Permits: How to complete your appeal form (Wales)



INVESTOR IN PEOPLE



May 2013

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# THE ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2010

## ENVIRONMENTAL PERMITS (IPPC, LA-IPPC & LA-PPC)

**Note:** The information contained within this guidance relates to procedures in [Wales only](#).

The information in this leaflet was correct when it was published, but it has no legal status.

From 1<sup>st</sup> April 2013 the Environment Agency ceased to operate in Wales, and their functions were taken over by Natural Resources Wales.

If you need this guidance in the Welsh Language, large print, in audio format or in Braille, please contact our helpline on 029 2082 3866.

## Introduction

Your appeal and essential supporting documents must reach the Planning Inspectorate and the relevant regulator within the following time-scales:

- a. in relation to an appeal against a revocation notice, before the revocation notice takes effect;
- b. in relation to the withdrawal of a duly-made application under paragraph 4(2) of Part 1 of Schedule 5, not later than 15 working days after the date of the further notice served by the authority stating that the application is deemed to be withdrawn;
- c. in relation to an enforcement notice, a regulator-initiated variation, suspension notice, mining waste facility closure notice or landfill closure notice, not later than 2 months after the date of the variation notice;
- d. in relation to a prohibition notice, not later than 21 days after the date of the notice; or
- e. in any other case, not later than 6 months after the date of the decision or deemed decision.

If we do not receive your appeal and documents within the appropriate time limit, we will not accept your appeal<sup>1</sup>.

Appeals made outside the time limits are only accepted in very exceptional circumstances for appeals outlined in 'b' to 'e' above. We cannot accept appeals against revocation notices ('a' above) if they are submitted outside the time limit.

## Handwritten appeal forms and other documents

Please complete the appeal form in **CAPITAL LETTERS** using **black ink**.

## Typed documents

Documents in a sans serif font are easier to read. Please use a font such as Arial or Verdana in a size of 11 point or larger.

Please:

- use **A4** paper wherever possible;
- **number the pages** of the documents;
- make sure **photocopied** documents are clear and legible;

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<sup>1</sup> We will consider accepting late appeals where there are exceptional circumstances for late submission. Reasons for late submission should be stated at the time of submission.

- put photographs (colour if possible), maps, plans etc. in a **separate appendix** and cross-reference them within the main body of the document;
- bind documents so that they can be undone quickly without damaging the document. Do not use wire or plastic spiral binders;
- do not use cover sheets, sleeves or other bindings that do not add value or information;
- do not send original documents unless we specifically ask for them; do not include self adhesive notes or small attachments which might be dislodged easily or lost;
- print documents on both sides of a page. You should use paper of good enough quality that something printed on one side of the page does not show through to the other side; and
- ensure that the scale, orientation and paper size of any maps and plans are shown clearly.

### **Appeal costs awards**

There is no charge involved in lodging an appeal, although you and the regulator will have to meet your own appeal expenses. However, if the appeal is to be decided by a **hearing or an inquiry**, then if you have good reason you can ask the Welsh Ministers or the Inspector to order the regulator to pay all or some of your costs. The regulator can also ask for you to pay some or all of their costs if they have good reason.

The Welsh Ministers or the Inspector will only do this if the person applying can show that the other side behaved unreasonably, and put them to unnecessary or wasted expense.

We will send you our separate guide 'Costs awards in planning appeals'; it is important that you read this guide because it explains how, when and on that basis you can make an application or have an application made against you.

## **COMPLETING THE APPEAL FORM**

In this guidance we use the same lettering and numbering as the Environmental Permitting appeal form.

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### **SECTION A**

#### **Appellant details**

Only the person who made the original application to the regulator has the right to appeal. All appeals must therefore bear the name of the original applicant.

If you did not make the original application (e.g. you may have recently purchased the site) and you wish to appeal you must obtain the written permission of the original applicant(s) to allow you to do this. You would become responsible for any costs arising from the appeal. Put your name in the "Name" line followed by 'for' and then the name of the original applicant. You must send the signed written permission to us with your appeal form.

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### **SECTION B**

#### **Agent details**

You do not have to employ an agent to handle your appeal. If you decide to employ an agent, he or she will probably complete the appeal form for you.

If you have an agent, we will send all of our letters or emails to the agent. We will not send a copy to you. You should ensure that you keep in touch with your agent about the appeal arrangements.

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### **SECTION C**

#### **Regulator details –Natural Resources Wales / Local Authority**

This information will probably be in letters you received from the regulator regarding your application and on the decision notice if one was issued.

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## SECTION D

### Appeal site address

The appeal site must be the same as the site given in the application / permit.

#### Postcode

This information is very important to us. If the appeal site does not have a postcode, please provide the postcode of the nearest building. If the site is very rural and remote, please provide information to help us identify it (e.g. a sketch map showing the site and at least two named or numbered local roads).

#### 1. Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land?

If you think that the Inspector will be able to see the site sufficiently from public land you need to answer "Yes" to this question. This will mean that the Inspector can come and view your site from public land without any arrangement being made.

If you think our Inspector will need to enter your land to see the site sufficiently, you need to answer "No" to this question. This means that we will arrange a time and date for the Inspector to visit the site accompanied by you (or your representative) and a representative from the regulator / local authority (LA).

**The purpose of the site visit is to view the site and surrounds in the context of the written material provided on the appeal. No representations will be accepted and no discussions of the grounds of refusal and appeal will be permitted at this visit.**

#### 2. If Yes to Q1, are there any health and safety issues which would need to be taken into account if he / she were to conduct an unaccompanied site visit? If so, please describe them below.

The Inspector will inspect the site as part of the appeal process we need to know what safety equipment and protective clothing will be required. The following questions indicate the type of information we need about the appeal site and any land or building that will need to be entered; please supply any relevant information on a separate sheet of paper.

- Is the site uneven or does it present any other known risks? Is special footwear or any other Personal Protection Equipment required, and will this be supplied at the site? (Please list).
- Is there any likelihood of exposure to pets or any other animals that may present a risk to personal safety?
- Is the site remote and/or can it be seen from other occupied buildings/property/public land or roadside?

- Does the site have a good mobile phone signal or is there easy access to a public telephone should the emergency services be required?
- Are there any areas that require specialist equipment or training for access – any confined spaces?
- Are there any dangerous pieces of equipment or substances stored at the location?
- Is there any likelihood of exposure to chemicals, asbestos, radiation or are there any other risks – requiring the use of Personal Protection Equipment – which may affect personal health & safety? (Asbestos is referred to directly as it was present in buildings built before it was banned in 1977).
- Will a ladder be required to view the appeal site? If so please: -
  - a. explain why this will be necessary;
  - b. give the height to which it will be necessary to climb the ladder; and
  - c. state whether the ladder will be fixed or removable – if removable, how will it be secured?
- Will it be necessary to view the site from a height (e.g. roof or balcony)?
- Is the site easily accessible for someone in a wheelchair?

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## **SECTION E**

### **Reasons for the appeal**

The regulator's' decision notice should make it clear if they have refused your application or if they have refused to grant a variation or removal of the conditions of an existing environmental permit.

If your appeal follows an application to vary or remove a condition, please provide a copy of the original permission and list the condition numbers your appeal relates to.

If you are appealing against the regulator's failure to decide your application within the time limits (option 9), please check the dates carefully. If you are in any doubt about the time limits that apply to your appeal please re-read the introduction at the start of this guidance note.

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## **SECTION F**

### **Grounds of appeal**

Your grounds of appeal should explain **in full** why you are aggrieved by the regulator's decision. It should describe those aspects of the decision which you would wish to change and how the change should be effected.

Please note the following:

- You should set out all your grounds of appeal clearly and concisely and focus upon the merits of the application. You should avoid repetition and information that does not relate to the issues involved. It is not necessary to repeat the regulator's reasons for refusal, but you should include a clear explanation of why you disagree with each of them. It is not enough to say that you do not accept them – this will not help the Inspector decide your appeal. We would not expect your grounds of appeal to exceed 3,000 words.
- You should state whether any of the information enclosed with the appeal has been the subject of **a successful application for commercial confidentiality under regulation 48**, providing relevant details. Unless such information is provided, all documents submitted will be in the public domain and open to inspection. In cases where the appellant considers that matters of confidentiality will arise during the life of the appeal, the case may be referred for decision by the Welsh Ministers.
- There is no need to set out national policy as Inspectors have these documents. However, you should refer to any paragraphs by number that you think are relevant.
- Any supporting documentation other than that listed in Section H should be kept to a minimum. It should be essential and directly relevant to the appeal. Such documentation should be clearly cross-referenced in the grounds of appeal.
- You may wish to submit appendices to your grounds of appeal. These can include reports and information that relate directly to the reasons for refusal and any issues that are in dispute; Appendices should be used sparingly.
- If you consider it essential to submit e-mail trails to support your grounds of appeal, you should carefully edit the e-mails to remove repetition so that key points can be clearly picked up.
- You may use photographs (preferably in colour) to illustrate your grounds of appeal. If you submit photographs you must give details of where they were taken, on a map showing the viewpoints, and when and what they show. If you take photographs in public places, please take reasonable care to respect the privacy of individuals whose images you may inadvertently capture. We are unable to return photographs until the appeal file has been closed; photographs will only be returned if you specifically request it.
- It would be helpful to attach any previous applications or decisions relevant to the site.
- If you are aware of any appeals made by other people relating to the site, or for nearby sites, please provide details – preferably the appeal reference number or the site address.
- If you are appealing against the regulator's failure to determine your application, it would be helpful to tell us why you think your application should be approved.

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## SECTION G

### Choice of procedure

There are 3 possible procedures for the determination of an appeal – written representations, hearings and inquiries. We will take into account any views you have expressed about which procedure would be most suitable for your case; we must also take the regulator's preference into account when we decide how the appeal will proceed.

Your appeal may not necessarily follow your preferred procedure; Inspectors give equal attention to every appeal regardless of the procedure.

#### Written Representations

The written procedure for dealing with an appeal is an exchange of statements between yourself and the regulator, followed by a visit to the site by an Inspector who will determine the appeal. This is usually the quickest, simplest and most cost effective way of deciding an appeal.

#### **(for Natural Resources Wales regulated Part A1 installations only)**

Appeals are dealt with in the spirit of the Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2003, SI 2003 No. 390 (W.52).

#### **(for Local Authority (LA) regulated Part A2 and B installations only)**

The appeal procedures will follow those laid out in Para 30.16 of the joint Welsh Assembly Government / Defra *General Guidance Manual on Policy and Procedures for A2 and B Installations*.

#### Hearing

This procedure is likely to be suited to more complicated cases which require detailed discussion about the merits of a proposal or where questions need to be asked to establish the facts. Although you may indicate a preference for a hearing, the Planning Inspectorate must be satisfied that your appeal is suitable for this procedure.

Hearings are generally conducted in the spirit of the Town and Country Planning (Hearings Procedure) (Wales) Rules 2003, SI 2003 No. 1271. Hearings are not usually suitable for appeals that:

- are complicated or controversial and have created a lot of local interest; or
- require cross-examination of witnesses.

#### Hearing date

- We will offer a date for the hearing based on Inspector availability.

- You and the regulator have one chance each to refuse the date before we will impose a date.
- You will also have the option to agree an alternative date with the regulator.

### Inquiry

This is the most formal of the procedures. The parties to the appeal will usually be legally represented and expert witnesses may be called to give evidence. Inquiries are conducted in the spirit of the Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (Wales) Rules 2003, SI 2003 No. 1267, as appropriate.

An inquiry will be held if you, or the regulator, decide that you do not want to use the written representations procedure and we decide that a hearing is unsuitable. Sometimes, even if both parties have opted for the written representations procedure or an informal hearing, we may decide to hold an inquiry. If we do, we will tell you why.

If you want us to hold an inquiry, please set out your reasons in the space provided on the appeal form.

### Inquiry date

- We will offer a date for the inquiry based on Inspector availability.
- You and the regulator have one chance each to refuse the date before we will impose a date.
- You will also have the option to agree an alternative date with the regulator.

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## **SECTION H**

### **Essential supporting documents**

We have listed the documents you are required to provide under Schedule 6(2)(1) in order for your appeal to be valid on the appeal form. If we do not receive **all** your essential appeal documents by the end of the appropriate appeal period we will not be able to proceed with it and you will lose your right to appeal. Please make sure that you have sent us everything; if not, your appeal will be delayed whilst we request the missing documents from you or possibly turned away if they are not all submitted by the appropriate deadline.

**If you are in any doubt about the time limits that apply to your appeal please re-read the introduction at the start of this guidance note.**

Please ensure that you have listed all the plans/drawings that you are sending to us and that they include reference to the scale, orientation and paper size. You should send us copies of all plans sent to the regulator with your application (including plans which have been superseded, you should clearly mark these "superseded").

You should not seek to submit new material when you make your appeal that was not considered by the regulator as part of the application. Therefore, any documents submitted during the appeal should be directly relevant and essential to the case and in response to the reasons for refusal (if any).

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## PERSONAL DETAILS

### Appellant personal details / Agent personal details (if any)

Personal details supplied on this page will not be made publicly available.

#### E-mail

If you tick the box to say that you prefer to be contacted by e-mail, where possible we will send you our letters by e-mail and we will not send paper copies.

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## PLEASE SIGN BELOW

This section provides a useful summary of the things you need to have done; please check your completed form carefully and tick the boxes under points 1 – 4 to confirm that the appropriate steps have been completed.

Sign and date the appeal form.

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## SEND

Please note that we must receive your appeal form and all supporting documents within the appropriate time limits. So please make sure that you send your appeal in good time before the time limit(s).

You must send a copy of the completed appeal form to the regulator (at the address form which the decision notice was send / or to the address shown on any letters received from the regulator). There is no need to send them all the supporting documents again. If you are submitting any supporting documents that were not part of your original application you must send these to the regulator with the appeal form.

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## WHEN WE RECEIVE YOUR APPEAL

When we receive your appeal form, we will:

1. Tell you if it is valid and who is dealing with it.
2. If everything is in order, we will give you an appeal **start date** and **timetable**.
3. Inform the regulator of the start date of the appeal (if applicable).

**If you submit information or representations late we may be unable to consider them, the Inspector may not see them and they may be returned to you.**

At the end of the appeal process, you will receive the Inspector's decision in writing, which will include details of the Inspector's reasoning.

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### **How we use your personal information**

If you participate in an application under the Environmental Permitting Regulations, then the type of personal information contained in your representations will normally include your name, contact details and any other personal information you choose to provide.

We use the information provided to process the application, and this includes making your written representations available to the appellant, Natural Resources Wales and other relevant parties.

We publish the Inspector's decision on the Planning Portal. In some cases, we also publish appeal documents and representations, including names and addresses. Phone numbers, fax numbers and e-mail addresses are removed before publication.

The guidance in this leaflet explains the application process in more detail and you are advised to read this leaflet before providing any representations. For further details please see our privacy statement:

[www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa](http://www.planningportal.gov.uk/planning/appeals/online/about/privacystatement=wa)

If you have any queries about our use of your personal information please contact us at the address below.

### **Further information**

Further information about our privacy policy is available on our website at [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk), or on request. If you have any queries about our policy, or wish to make a request for your personal data then please contact us through the address detailed in the next section.

## **Contacting us**

You can contact The Planning Inspectorate at the address below:

The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

Tel: 029 2082 3866  
Fax: 029 2082 5150  
E-mail: [wales@pins.gsi.gov.uk](mailto:wales@pins.gsi.gov.uk)

## **Judicial Review**

The decision on your appeal is final; after it has been issued, neither the Welsh Ministers or the Inspector, can consider further representations or make any comments on the merits or otherwise of the case.

The decision can only be challenged in the courts by judicial review. An application to seek permission for judicial review should be made to the Administrative Court of the High Court of Justice. This should be done quickly and in any case not longer than 3 months after the date of the decision.

If the appeal is quashed following the proceedings before any court, the main parties will be notified and asked to provide any further representations within 28 days. The Welsh Ministers may then ask for a hearing to be held or re-opened and the appeal will be re-determined.

## **Complaints**

If you have any complaints or questions about the decision, or the way we have handled the appeal, you can write to or e-mail our Complaints Officer:

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

Tel: 029 2082 3889  
Fax: 029 2082 5150  
E-mail: [wales@pins.gsi.gov.uk](mailto:wales@pins.gsi.gov.uk)

We will investigate your complaint and you can expect a full reply within three weeks. However, we can not reconsider an appeal if a decision has already been given on it. The decision can only be challenged in the courts by judicial review.

## **The Public Services Ombudsman**

If you have a complaint about the way we have dealt with you or the way the regulator dealt with a case, you can, in some cases, ask the Public Services Ombudsman to investigate. However, the Public Services Ombudsman can't investigate a complaint about a planning decision just because you and the regulator don't agree about it and the Ombudsman has not power to alter the decision. A booklet explaining how to make a complaint is available from the Public Services Ombudsman's office at:

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

Tel: 0845 601 0987

Fax: 01656 641199

E-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk),

Website: [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk).