



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Sustainable Drainage System (SuDS) Enforcement Appeals

January 2019

What is a SuDS?

Sustainable Drainage Systems (SuDS) are a mandatory requirement for nearly all new developments in Wales. SuDS aim to manage rainfall in a way similar to natural processes, making use of the landscape and natural vegetation to control the flow and volume of surface water. Further information about SuDS can be found on the relevant page of the Welsh Government's website:

<https://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>

What is a SuDS Enforcement appeal?

If the local SuDS Approval Body (SAB) feels that a breach of the requirement for SuDS approval has occurred, for example because a scheme has been constructed without SuDS approval, it can issue an enforcement notice requiring the developer to, among other things apply for SuDS consent. A developer who has been given an enforcement notice can appeal against the SAB's decision to issue that notice. There is no fee for making an appeal, but you will be expected to meet your own costs.

Who can appeal?

Only the developer who has been given the notice can appeal against the decision to issue it.

When can an appeal be made?

An appeal must be made within the period of **4 weeks** beginning with the day on which a developer is given the enforcement notice. When an appeal is made, the enforcement notice is suspended until the appeal is decided or withdrawn.

What do I need to submit with my appeal?

To make a valid appeal you must send a copy of all the following documents and information **to both the Inspectorate and the SAB** so that they are received **before the appeal time limit expires**:

- A fully completed SuDS Enforcement appeal form.
- Your grounds of appeal and the facts that you are relying on to support them (there is space to include these on the appeal form).
- Your preferred appeal procedure (this is also on the appeal form – see below for information about the choice of procedure).
- A copy of the Enforcement Notice.

The Grounds of Appeal

An appeal against a SAB's decision to issue a SuDS enforcement notice can only be made on certain grounds, or a combination of those grounds. The grounds are:

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unreasonable;
- (d) there is no breach of the requirement for approval.

How can I submit my appeal?

You can submit your appeal by email to:

wales@planninginspectorate.gov.uk

or by post to:

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Who will decide my appeal?

Appeals will be decided by a Planning Inspector appointed to act on behalf of the Welsh Ministers. The Inspector will come to a decision based on the evidence put to them in writing, orally at any public event and gained from their site visit.

What happens during the appeal process?

This will depend on the procedure that your appeal is following. You must indicate your preference when making your appeal, but we will make the final decision as to which is most appropriate and this may mean a combination of procedures.

There are three different types of procedure:

Written Representations – Evidence is limited to submissions in writing and the Inspector's site visit.

Hearing – Submission of written evidence is followed by an informal round table discussion between the parties, led by the Inspector and open for

members of the public to observe. Used to gather answers to any questions the Inspector has about the submitted evidence and followed by a site visit.

Public Inquiry – A formal public event that may last multiple days and allows for cross-examination and evidence given under oath. Usually reserved for cases where there are areas of detailed technical or legal dispute between the parties that require the evidence to be tested by advocates. Open for members of the public to observe and followed by a site visit.

We will notify you at an appropriate point in the appeal process, and always in good time, of the date and time for site visits, hearings and inquiries.

Who has to do what and when?

The following table shows the timetable for each type of procedure.

| Timetable | Consultees | Appellant | SAB |
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| <p>Appeal received</p> <p>We set the start date and the timetable</p> | | <p>Sends the appeal form and all supporting documents to us and the SAB. The appeal representations should make up their full case.</p> | <p>Receives the appeal documents.</p> |
| <p>Within 5 working days of the start date</p> | <p>Receive the SAB's letter about the appeal, telling them that they must send us any representations within 4 weeks of the start date.</p> | <p>Receives a completed questionnaire and any supporting documents from the SAB.</p> | <p>Sends the appellant and us a completed questionnaire and supporting documents. The questionnaire may also comprise the SAB's representation on the appeal. The SAB also writes to consultees about the appeal.</p> |
| <p>Within 4 weeks of the start date (Only exceptionally)</p> | <p>Send their representations to us.</p> | | <p>If the SAB decides not to treat the questionnaire and supporting documents as its representations</p> |

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| will we accept late representations) | | | it sends us its further representations. |
| Within 6 weeks of the start date | Send us their final comments on the SAB's representations and/or any other consultee's representations. No new evidence is allowed. | Sends us their final comments on the SAB's representations and on any representations from consultees. No new evidence is allowed. | Sends us its final comments on the appellant's representations and on any representations from consultees. No new evidence is Allowed. |
| For inquiry cases only – by no later than 4 weeks before the inquiry | Any consultees invited to participate at the inquiry can submit a written statement of evidence and summary. | The appellant must submit a written statement of evidence and summary. | The SAB must submit a written statement of evidence and summary. |

When will I get a decision?

The circumstances of each appeal are different and our workloads can vary at different times. For these reasons we cannot give a definite date for a decision. However, we are set targets by the Minister for each type of appeal, which we strive to meet in all cases:

Written Representations – 14 weeks from the start date.

Hearings – 21 weeks from the start date.

Inquiries – 29 weeks from the start date.

When made, the decision will be sent by e-mail or post to the appellant, the SAB and all other parties who have requested a copy. It may also be published online.

Can I apply for costs?

Yes. However, parties are expected to meet their own costs in appeals. An appellant is not awarded costs simply because their appeal succeeds and similarly, a SAB is not awarded their costs because their position or decision is upheld. Costs may only be awarded where one party has

behaved unreasonably and this has caused another party to incur 'unnecessary or wasted expense'.

If you intend to apply for costs, you should do so at the earliest opportunity. Further guidance on awards of costs is set out in [Annex 12 of the Development Management Manual](#).

What happens after the decision is made?

The Inspector's decision will stand unless it is subject to a Judicial Review. Information on the Judicial Review process is available from HM Courts & Tribunals Service:

<https://www.gov.uk/government/publications/administrative-court-judicial-review-guide>

Can I withdraw my appeal?

Yes, you can withdraw your appeal at any time prior to the issue of the decision by notifying us in writing by email or post and sending a copy to the SAB. You should bear in mind that the enforcement notice will become effective if you withdraw your appeal.

How can I contact the Planning Inspectorate?

If you have further questions or require more information about SuDS appeals, you can contact us at:

Email: wales@planninginspectorate.gov.uk

Telephone: 0303 444 5940

Post:

The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ