

A Guide to Engaging with Planning & Environment Decisions Wales

2021

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Introduction

Planning & Environment Decisions Wales exists to deliver an outstanding national planning and appeals service which enjoys the confidence and respect of Ministers, the public and all stakeholders. We aim to deliver this service in keeping with our values of fairness, openness, impartiality and timeliness. These values run through the core of everything we do, as does a commitment to our customers. Please read our Customer Charter which can be found as [Appendix 01](#) of this document.

This guide aims to help those people who are interested in an appeal understand and engage in the process in an effective way. People who wish to be involved in an appeal and who do not represent the appellant or local planning authority/relevant authority are referred to as interested parties/persons or third parties. Both of these wordings carry the same meaning and the use of one over another does not imply any less importance than the other.

What Is An Appeal, Who Decides The Outcome and By What Right?

When a local planning authority/relevant authority make a decision on an application, or when they issue a notice then the applicant/recipient of the notice have the right to appeal this decision. This right exists regardless the type of development; from your neighbour's extension up to large scale housing or renewable energy developments – all receive the same level of attention and impartiality from the Planning & Environment Decisions Wales.

Nearly all appeals will be decided by one of our Planning Inspectors acting as the appointed person. Inspectors are recruited from a range of planning professions and hold an extensive knowledge of the planning system and related matters. Inspectors take pride in their role and in conducting it in a professional manner, adhering to our values of fairness, openness, impartiality and timeliness. There are a small percentage of cases which are decided by the Welsh Ministers.

[Appendix 02](#) of this document lists the types of appeals we deal with, who will make the decision and the relevant legislation.

The appeal process

When we receive an appeal the team within the office will first check its validity. This entails checking that we have all of the required information to begin the appeal timetable and that it has been received within the deadline for submission ([Appendix 03](#)) details appeal types and deadlines).

When an appeal is confirmed as valid we will write to the appellant and the local planning authority/relevant authority notifying them of the start date and setting out the timetable for the appeal. At this point the authority has 5 days in which to notify any interested party, who made representations during the application, of the submitted appeal as well as the deadline for any representations to be made to Planning & Environment Decisions Wales. The authority should also provide us with a document bundle referred to as the *Questionnaire*; amongst the documents contained therein should be those representations made during application. For those appeals types such as Enforcement Appeals there will not have been an application stage, in these cases any representations will need to be made directly to Planning & Environment Decisions Wales within the appropriate deadline.

For the majority of appeals interested parties will have 4 weeks within the deadline to submit representations to us. Please note that for householder, minor commercial and advert appeals interested parties cannot submit further representations to Planning & Environment Decisions Wales; the Inspector will give consideration to their application stage representations. Interested parties may withdraw any representation made at this earlier stage and it will not be considered. Any such withdrawal will need to be made in writing. Following the exchange of representations interested parties have the right to comment further, except for householder, minor commercial or advert appeals.

The appeal now proceeds to the event that the procedure of the appeal requires. This may be;

- A site visit,
- A hearing,
- An inquiry, or
- A mixture of the three.

Planning & Environment Decisions Wales holds the power to set which of these procedures an appeal is determined by. We will do so toward the outset of an appeal and within time for all parties to be aware and prepared. Recent reforms to the appeals system in Wales mean that for those appeals lodged in relation to applications made on or after 05 May 2017 we can employ a mixed procedure. For an explanation of how a site visit, hearing or inquiry will work please see the [At the Event](#) section of this guidance.

Making Your Representation

Making a representation on an appeal can be a confusing or daunting process for someone who has had no prior involvement with the appeals process or the planning system. The following section aims to guide you through, and help you make a worthwhile contribution to, what is at heart a simple process.

You may be asking yourself what your representation should contain, or what information the Inspector will want to know. It is of course open to you to provide the Inspector with whatever information you feel is relevant to the case, however, those representations that will hold most merit relate to the **material planning considerations** of a case. For a planning decision a material planning consideration would be things in the vein of;

- Issues such as loss of sunlight, traffic generation/highway safety, noise, smells/fumes, layout/densities of buildings....,
- The effect on trees, nature conservation or biodiversity,
- Local and national planning policies such as found in Planning Policy Wales or your authority's Development Plan,
- Relevant planning Case Law,
- Circulars, orders, statutory instruments...

The Inspector, as decision maker, will decide the weight and merit to afford each representation made. However you should be aware that representations referring to issues such as those listed below, will not be considered as material to the case;

- Details of personal disagreements/private matters between you and the appellant,
- Loss of property value/view,
- Building regulations,
- Personal circumstances of the appellant.

Further to this, representations containing comments that are abusive, racist or potentially libellous will be returned and not seen by the Inspector. Should any such comments be removed and the representation returned by the deadline the comments will be accepted. If they are not returned in an acceptable manner within the deadline then they will not be accepted.

If you feel that you have nothing to add to the representations made to the local planning authority/relevant authority then you do not need to write to us. Your comments will be forwarded to Planning & Environment Decisions Wales by the authority and will be taken into consideration by the Inspector.

Representations are welcomed in hard copy or via e-mail. It is your choice as to which method best suits you. If you do submit representations via e-mail or in hard copy then you will need to quote the appeal reference so that we can add your comments to the right case. If you would like a copy of the Inspector's decision and/or confirmation of receipt of your representation then you will need to state so. Copies of decisions/confirmation of receipt will not be issued as a matter of course. You may also wish for the Inspector to consider the impact of the appeal from your property. If so, you will need to request that Planning & Environment Decisions Wales views the appeal site from your property. You should note that it will be at the discretion of the Inspector at the time of their visit as to whether they feel it is necessary.

Representations can be made in the form of a letter if you are more comfortable with this. However if you are unsure on how best to lay out your comments [Appendix 04](#) of this guide is our pro-forma interested party comments form.

You should note that we cannot accept anonymous representations, however should you wish your details not to be exchanged to the appeal parties, you will need to notify Planning & Environment Decisions Wales and we will take the necessary steps. Please read [Appendix 05 Planning & Environment Decisions Wales Publishing Policy](#) for more details.

If you do decide to produce your representation without using the form, or if you are including supporting documents, then we would ask that you have some consideration to the table below. This provides some guidelines on how best to present a document to Planning & Environment Decisions Wales.

<p>Formatting</p>	<ul style="list-style-type: none"> • For typed documents you should use a sans serif font, examples of which include Arial and Verdana, the font should be set to size 11 or larger. • If you are completing any documents by hand you should use capital letters and black ink. Both this and the point above make documents easier to read for both the office staff responsible for your appeal and the Inspector allocated to your appeal. They also produce a better scanned image for publishing purposes. • You should ensure that you number all pages accordingly. • Use A4 paper wherever possible. • Make sure photocopied documents are clear and legible.
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	<ul style="list-style-type: none"> • 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. • Ensure that the scale, orientation and paper size of any maps and plans are shown clearly. • If you are reproducing a map or plan, ensure that the copy you are sending is printed to scale. • Send pictures, photographs, plans, maps or drawings as individual files. Avoid the use of bitmap images as they are very large.
Acceptable file formats	<p>PDF .pdf Microsoft Word .doc or .docx TIF .tif or .tiff JPEG .jpg or .jpeg ZIP .zip</p>
File sizes	<p>Documents submitted by disc/USB drive should be kept below 15mb wherever possible to ensure that we can publish them. It is your responsibility to keep your documents to a manageable size.</p> <p>If you have documents that are larger than this you can try the following;</p> <ul style="list-style-type: none"> • Break long documents into several files, but note the document naming conventions below. • Try and use black and white wherever possible (unless submitting photographs). • If submitting images, your software may have file/image compression facilities to make them smaller. • Note scanned documents are usually bigger than non-scanned versions. • Provided you are using the acceptable file types above, you can use ZIP files to compress documents. • If you have a large file and you are unable to use the options listed, you can email anything up to 10mb to Pedw.casework@gov.wales
Security	<ul style="list-style-type: none"> • Remove any document security and enable macros if necessary. Documents should not be password protected, they should not be formatted as 'read only', printing, redacting should be enabled. • Documents that prevent printing and other functions will require resubmission in a useable format.
Copyright	<ul style="list-style-type: none"> • Ensure you have the owner's permission and have paid any copyright licence fee before sending in documents. • People may only scan an Ordnance Survey map if they; <ul style="list-style-type: none"> ▪ Have an annual licence to make copies; or

	<ul style="list-style-type: none"> ▪ Have purchased a bulk copy arrangement; or ▪ Are using a local planning authority / relevant authority supplied map under the 'map return scheme' (for which a fee is normally payable at the local planning authority / relevant authority's discretion), or ▪ Have purchased the site-specific map from the Planning Portal for the purposes of attaching to a planning application, appeal or representation. <p>More information on map licensing is available on the Ordnance Survey website: http://www.ordnancesurvey.co.uk/support/licensing.html</p>
<p>File names</p>	<ul style="list-style-type: none"> • Ensure all documents have descriptive names, including the type of document you are sending, eg '<i>Proposed plan 1 March 2017</i>'. • Number appendices and submit them as separate documents. Ensure the first page includes the appendix number. Name them to indicate what they form part of, and their sequence eg '<i>Appeal statement Appendix 2 Traffic census</i>'. • Use '<i>Part 1</i>', '<i>Part 2</i>' etc in the file name if you have split up a large document eg '<i>Appeal statement in Appendix 1 Environmental Assessment Part 1 of 3</i>'. • Include the required paper size in the document name for plans and drawings eg '<i>Proposed plan A3 size 1 March 2017</i>'. • Include scale bar(s) on all plans and drawings. • Do not use a colon ':' in any file names.
<p>Do not</p>	<ul style="list-style-type: none"> • Send original documents unless we request them. • Bind documents so that they • Provide a photograph of a document as a substitute for a scanned image; the details that are required are usually illegible when this is done. • Please do not provide one electronic document that encompasses all of your appeal documentation in one file. • You should not use hyperlinks within documents you send to us. Instead, you should download such documents yourself and attach them separately. • You should not use hyperlinks to a website page containing multiple documents or links. • Use cover sheets, sleeves or other bindings that do not add value or information. • Include self-adhesive notes or small attachments which might be dislodged easily or lost.

We will return any audio/video evidence sent to us. We cannot accept audio or video evidence, as we cannot be sure that everyone involved has exactly the same version or that they have the equipment needed to access the evidence. However, you may send a written summary which will be seen by the Inspector, the appellant and the LPA. Please send within the 4 week deadline for representations.

It may be that there are a number of interested parties to an appeal who share concerns and would like to draw the attention of the Inspector to a number of matters. A material planning consideration can only be considered once, and in these instances it may be easier for groups of interested parties to form a local group and submit their representations as a single body. Whilst the range and level of public/local interest in an appeal may be noted by the Inspector, it will only be those material planning considerations raised which will be afforded weight. To put this in another way; a number of voices raising a point do not make it any more, or less, valid than had it been raised by one voice in unison.

Late representations will only be accepted in exceptional circumstances or those instances where an incorrect date has been publically circulated by the authority.

At the Event

All appeals will be decided on the basis of three procedures; written representations, hearings or inquiries. Planning & Environment Decisions Wales holds the power to determine the procedure, and where necessary we can employ a mixed procedure. A mixed procedure would consist of the exchange of documents being followed by a site visit and matter specific hearing or inquiry sessions. This section explains what you should expect from each of the different events connected to these procedures.

A site visit will normally take place when it necessary so that the Inspector can consider the details of the appeal as they would be found in reality. Site visits can take place as either unaccompanied, whereby the Inspector can see everything that they need to without the need for someone to grant them access to the site, or as access required, whereby someone needs be on hand to grant access. No party to an appeal can discuss the merits of a case or attempt to sway the opinion of the Inspector at a visit.

Hearings sessions will take place at a venue relatively local to the appeal site; they are public sessions and local people are encouraged to attend. The details of when and where a hearing is due to take place will be circulated two weeks in advance. Whilst there is no legal right for interested parties to speak at a hearing, if you are interested in doing so it is recommended you attend at the opening. At the opening of the hearing the Inspector will set out the schedule and also ask if anyone wishes to speak and will normally allow you to do so. Before attending it is worthwhile considering what you wish to say and how you want to say it. You may wish to consider reading aloud from a brief pre-prepared statement, if there are a number of interested parties with shared concerns that you may wish to have one person act as a spokesperson for you all.

An inquiry is the most formal of the appeal procedures, whilst not being a court of law there are similarities; witnesses will be called, evidence will be given under oath and there is the opportunity for cross-examination to take place. This can sound daunting but the presiding Inspector will explain the process at the outset of the inquiry and will ensure that it is conducted in a professional manner.

Following the close of a hearing/inquiry the Inspector will make a site visit before closing proceedings fully and moving to make their decision.

The Decision

A copy of the Inspector's decision will be issued wherever possible within the Ministerial Target. It will be sent to the appellant, local planning authority/relevant authority and any interested/third parties who have requested a copy. It will be sent via e-mail or in the post depending on your stated choice.

In the event that you are dissatisfied with a decision and you have concerns or queries in relation to its content or the process by which it was made, then you should write to us stating these. We will acknowledge receipt and investigate fully, aiming to reply within 20 working days. We do not hold the power to review or a change a decision, but we will apologise where necessary and learn lessons where we can.

The only means open to any party to change a decision is to seek that it is re-determined through a successful challenge in the High Court. For this to be successful you would need to find that the Inspector had erred on a point of law – disagreeing with the Inspector is not reason enough to make a challenge. It is worth fully considering the financial implications of a challenge. Details on feedback, complaints and challenges can be found within [Appendix 06](#).

Welsh Language

Planning & Environment Decisions Wales promotes and encourages the use of Welsh throughout all of its work in Wales. We welcome communication in a Welsh, bi-lingual or English format and will correspond with you in your stated language preference, in keeping with our obligations as set out in The Welsh Language Standards (No. 2) Regulations 2016.

If you would like a copy of this document in Welsh it is obtainable online at; Alternatively you can e-mail PEDW.GwaithAchos@llyw.cymru or ring **0300 0604400** to request a copy.

Contacting Us

Please write to;

**Planning & Environment Decisions Wales Crown Buildings
Cathays Park
Cardiff
CF10 3NQ**

Pedw.casework@gov.wales

PEDW.GwaithAchos@llyw.cymru

For general enquires please ring: **0300 0604400**

Getting Help

Planning & Environment Decisions Wales exists as an impartial body; as such we cannot offer parties planning advice. If you would like help in taking part in an appeal and you cannot find what you need within this guidance then you can contact Planning Aid Wales.

Planning Aid Wales are an independent, charitable organisation who provide a free, independent advice service on Town and Country Planning issues to those people and groups

that cannot afford professional representation. Planning Aid Wales do operate eligibility criteria so that they ensure their services are delivered to those most in need. You may wish to consult this before approaching them.

They can be contacted at;

**Planning Aid Wales
First Floor
174 Whitchurch Road
Heath
Cardiff
CF14 3NB**

Phone: **02920 625 000**

Website: www.planningaidwales.org.uk



The Planning Inspectorate Yr Arolygiaeth Gynllunio

CUSTOMER CHARTER



Planning & Environment Decisions Wales is committed to supporting sustainable development by providing an open, fair and impartial service that meets the needs of all our customers.

Our promises to you – we will:-

- Be helpful and polite, and treat you with courtesy and respect at all times;
- Listen and respond to your concerns, apologise for and learn from our mistakes, and use your feedback to improve how we do things where possible;
- Decide all cases efficiently and as quickly as possible;
- Make guidance available to help you understand the process and timetable;
- Ensure cases are handled by people with the right level of experience and expertise;
- Make well-reasoned decisions that cover all the main issues and are based on published national and local policies and all evidence submitted within the set deadlines
- promote and encourage the use of Welsh in the handling of its roles within Wales.

In return – we ask that you:-

- Read the guidance we make available and let us know if anything is unclear;
- Provide the information in a full, succinct and accurate way in accordance with the timetable or other deadline, using our online service wherever possible;
- Understand that you may not get the outcome that you want;
- Treat our staff with courtesy and respect, and accept that we will not tolerate rude or abusive behaviour in any form of communication;
- Let us know if our service to you falls short and give us the opportunity to put that right;
- Understand that we cannot (a) advise you on how to argue your case, (b) provide legal advice or (c) change a decision on a case once it is made.

Type of Case	Relevant Legislation	Decision Maker ¹
Planning Appeals	The Town and Country Planning Act 1990 – Section 78 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	Appointed Person
Householder Appeals	The Town and Country Planning Act 1990 – Section 78 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 – Part 3	Appointed Person
Minor Commercial Development Appeals	The Town and Country Planning Act 1990 – Section 78 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 – Part 3	Appointed Person
Enforcement Notice Appeals	The Town and Country Planning Act 1990 – Section 174 The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	Appointed Person
Advertisement Appeals	The Town and Country Planning Act 1990 – Section 78 The Town and Country Planning (Control of Advertisements) Regulations 1992	Appointed Person

¹ See section 22 of this guidance for more details on ‘Who decides’

	<u>The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 – Part 3</u>	
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<p>Advertisement Discontinuance Notice Appeals</p>	<p>The Town and Country Planning Act 1990 – Section 78</p> <p>The Town and Country Planning (Control of Advertisements) Regulations 1992</p> <p>The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 – Part 3</p>	<p>Appointed Person</p>
<p>Listed Building and Conservation Area Consent Appeals</p>	<p>The Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 20</p> <p>The Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012</p> <p>The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017</p>	<p>Appointed Person</p>
<p>Listed Building or Conservation Area Enforcement Notice Appeals</p>	<p>The Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 39</p> <p>The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017</p> <p>The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017</p>	<p>Appointed Person</p>
<p>Lawful Development Certificate Appeals</p>	<p>The Town and Country Planning Act 1990 – Section 195</p> <p>The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017</p>	<p>Appointed Person</p>
<p>Call-ins</p>	<p>The Town and Country Planning Act 1990 – Section 77</p> <p>The Planning (Hazardous Substances) Act 1990 – Section 20</p>	<p>Welsh Ministers</p>

	The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	
Listed Building or Conservation Area Consent Call-ins	The Planning (Listed Buildings and Conservation Areas) Act 1990 – Section 12 or 19 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	Welsh Ministers
Tree Preservation Order Appeals	The Town and Country Planning Act 1990 – Sections 78 & 198 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	Appointed Person
Tree Replacement Notice Appeals	The Town and Country Planning Act 1990 – Section 208 The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	Appointed Person
Hazardous Substances Consent Appeals	The Planning (Hazardous Substances) Act 1990 – Section 21 The Planning (Hazardous Substances) (Wales) Regulations 2015 – Part 3 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	Appointed Person
Hazardous Substances Contravention Notice Appeals	The Town and Country Planning Act 1990 – Section 174	Appointed Person

	The Planning (Hazardous Substances) (Wales) Regulations 2015 – Part 4 The Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017	
Maintenance of Land Notice Appeals	The Town and Country Planning Act 1990 – Section 217 The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2017	Appointed Person

Appeal Type	Submission Deadline
Planning	Within 6 months of the date of the LPA decision notice.
Enforcement	No later than midnight of the day before the notice takes effect. So, if a notice took effect on 31 st March we would need the appeal to be with us by midnight of 30 th March.
Householder Scheme (HAS)	Within 12 weeks from the date of the LPA decision notice.
Advertisement Consent	Within 8 weeks from the date of the LPA decision notice.
Listed Building Consent	Within 6 months of the date of the LPA decision notice.
Conservation Area Consent	Within 6 months of the date of the LPA decision notice.
Listed Building Enforcement	No later than midnight of the day before the notice takes effect. So, if a notice took effect on 31 st March we would need the appeal to be with us by midnight of 30 th March.
Lawful Development Certificate	Within 6 months of the date of the LPA decision notice.
Modification or Discharge of Planning Obligation	Within 6 months of the date of the LPA decision notice.
Non-Validation	With 2 weeks from receipt of the notice from the LPA informing you that your application is invalid.
Minor Commercial Scheme (CAS)	Within 12 weeks of the date of the decision notice.
Tree Preservation Order	Within 28 days of the date of receipt of the decision.
Hazardous Substances Consent	Within 6 months from the date on the decision notice
Maintenance of Land Notice	No later than midnight of the day before the notice takes effect. So, if a notice took effect on 31 st March we would need the appeal to be with us by midnight of 30 th March.
Tree Replacement Notice	No later than midnight of the day before the notice takes effect. So, if a notice took effect on 31 st March we would need the appeal to be with us by midnight of 30 th March.
Advertisement Discontinuance Notice	No later than midnight of the day before the notice takes effect. So, if a notice took effect on 31 st March we would need the appeal to be with us by midnight of 30 th March.
Hazardous Substances Contravention Notice	No later than midnight of the day before the notice takes effect. So, if a notice took effect on 31 st March we would need the appeal to be with us by midnight of 30 th March.

COMMENTS ON CASE

Please note that comments about this case need to be made within the timetable for it. This can be found in the notification letter attached. Comments submitted after the deadline may be considered invalid and returned to sender.

DETAILS OF THE CASE

Case Reference:

Address of site

Postcode
(if known)

SENDER DETAILS

Name

Acting On Behalf Of

(leave blank if writing on
your own behalf)

ABOUT YOUR COMMENTS

In what capacity do you wish to make representations on this case
(Neighbour, Councillor, Owner, Tenant)

What kind of representation are you making?

YOUR COMMENTS ON THE CASE - Please Provide Your Representation below

Planning & Environment Decisions Wales Publishing Policy

2021

Introduction

Planning & Environment Decisions Wales exists to deliver an outstanding national planning and appeals service which enjoys the confidence and respect of Ministers, the public and all stakeholders. We aim to deliver this service in keeping with our values of fairness, openness, impartiality and timeliness. These values run through the core of everything we do, as does a commitment to our customers.

Scope

This policy sets out how casework in Wales will be published and how we will ensure that in doing so we meet our obligations as **data controllers**². It explains;

- the process,
- the rationale behind this process, and
- what our customers should expect to see.

The Policy

We will publish documents received to the ACP; in doing so we recognise that customers have legitimate expectations of what we will do with their information. Therefore we take great care to adhere to those obligations imposed on us as data controllers and all documents, on a case by case basis, will receive a check for that information which would be considered as **personal**³ or **personal sensitive**⁴. As a matter of course we will securely redact;

- Signatures,
- Personal phone numbers (landline or mobile),
- Personal e-mail addresses,
- Pictures of minors.

The process of redacting information from documents will be undertaken in a different team to ensure a greater level of scrutiny.

As data controllers our role requires us on a case by case basis, and with thought to **PARSOL guidance**⁵, to balance the rights, freedoms and expectations of **data subjects**⁶ against the need for openness and transparency in the planning system.

All staff have been trained in how to consider the appropriateness of publishing a document. As part of this process for personal sensitive data we will operate a peer checking system whereby officers will highlight content with senior colleagues who will make the final decision. If we are in any doubt we will not publish the information and a notice will be uploaded in its place. This notice will explain;

- why the information is not published
- that it is held for consideration when determining the appeal
- a copy may be viewable upon request within our office.

It is important to note that a document does not have to be published to ACP for it to be publically available.

Data subjects and customers should expect a document viewed on the ACP to contain only that information which is pertinent to the appeal. If any potential contravention of this policy occurs we will take immediate action to remove the information.

2 Data Protection Act 1998 (DPA) – Part I Preliminary (<http://www.legislation.gov.uk/ukpga/1998/29/part/1>)

3 DPA – Part I Section 1 (<http://www.legislation.gov.uk/ukpga/1998/29/section/1>)

4 DPA – Part I Section 2 (<http://www.legislation.gov.uk/ukpga/1998/29/section/2>)

5 <https://www.gov.uk/government/publications/planning-and-building-control-information-online-guidance-notes-for-practitioners>

6 DPA – Part I Preliminary (<http://www.legislation.gov.uk/ukpga/1998/29/part/1>)

1. Feedback

1.1. We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us.

1.2. We appreciate that many of our customers will not be experts on the planning system and for some it will be their one and only experience of it. We consider that your opinions are important and realise that they may be strongly-held.

1.3. All correspondence we receive after the appeal decision is issued is handled by the Quality Team which ensures that all comments are considered and complaints are investigated thoroughly and impartially. We will reply as soon as possible in clear, straightforward language, avoiding jargon and complicated legal terms. It should be noted that correspondence received without sufficient contact information may not be responded to. It is therefore prudent to ensure that you provide Planning & Environment Decisions Wales with a name and contact details when providing your feedback.

1.4. You can contact us in any of the ways below.

- You can get in touch on 0300 0604400 if you want to make your complaint over the phone.
- You can e-mail us at pedw.casework@gov.wales
- You can write a letter to us at the following address:
Planning & Environment Decisions Wales
Room 1-004
Crown Buildings
Cathays Park
Cardiff
CF31 3NQ

Whilst we are happy to talk to people on the phone, where there are a number of issues to relay you may find it easier to put these in writing setting out the points clearly. We will acknowledge your correspondence, advise you who is dealing with it and provide you with a timescale for replying. We aim to reply to 80% of all correspondence within 20 working days.

Appeal “Allowed” or “Dismissed”

1.5. In planning appeals (under section 78 of the Town and Country Planning Act 1990) ‘Allowed’ means that planning permission has been granted, ‘Dismissed’ means that it has not. In enforcement appeals (under section.174), ‘Upheld’ means that the Inspector has rejected the grounds of appeal and the

enforcement notice must be complied with; 'Quashed' means that the Inspector has agreed with the grounds of appeal and cancelled the enforcement notice.

Inspection of appeal documents

1.6. We normally keep paper copies of appeal files for 12 weeks after the decision is issued, after which they are destroyed. We retain a full electronic copy of an appeal for 12 months. You can inspect appeal documents for appeals made in Wales at our Cardiff office, by contacting us to make an appointment (see 'Contacting us' below).

2. Administrative Complaints

2.1 There may be occasions in which you feel there has been an administrative error during the handling of an appeal and you may well feel the need to complain to us.

How we investigate administrative complaints

2.2. We will acknowledge your complaint upon receipt and move onto investigating any issues raised.

2.3. Complaints regarding any administrative issues are independently investigated by a member of our management team. They are done so impartially and never within the team concerned. Where necessary we will speak to the member of staff concerned.

2.4. Once the investigation is complete we will issue a full response.

What we will do if we have made a mistake

2.5. If, upon completion of an investigation, it is apparent that we have made a mistake then first and foremost we will apologise, we will then take the necessary steps to correct this. Further to which, we will seek for any parties adversely effected to be returned to the position they were in prior to the mistake being made.

2.6. It should be noted that should an administrative error be highlighted after the close of the appeal we will not be able to rectify the error, however you may be entitled to make an ex-gratia claim.

3. Complaints about Appeal Decisions

3.1. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision or the way the appeal was handled.

How we investigate post-decision complaints

3.2. It is the job of the Quality Assurance Team to investigate complaints about procedure, decisions or an Inspector's conduct. Inspectors have no further direct involvement in the case once their decision is issued.

3.3. To help with our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

3.4. Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the local planning authority or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

3.5. Once our investigations are complete, we will send a full reply comprehensively responding to all substantive points raised.

3.6. If you consider that our reply has not adequately responded to your concerns, our policy is that a senior manager will review your complaint and send a final reply.

3.7. Sometimes a complaint is not one we can deal with (for example, complaints about how the local planning authority dealt with another similar application), in which case we will explain this and suggest who may be able to deal with the complaint instead.

3.8. Similarly we cannot resolve any issues you may have with the local planning authority about the planning system or the implementation of a planning permission.

3.9. If planning permission is granted, either by the local planning authority at application stage or by the Inspector on appeal, the local planning authority have the sole responsibility for monitoring the implementation of the permission and ensuring that it is in accordance with the plans and any conditions. Planning & Environment Decisions Wales does not have this role.

3.10. If the local planning authority considers that the development does not comply with the permission they have power to take enforcement action.

What we will do if we have made a mistake

3.11. Although we aim to give the best service possible, there will unfortunately be times when things go wrong and we fail to achieve the high standards we set ourselves. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector or administrative support staff and their line manager will be told that the complaint has been upheld and we will look to

see if lessons can be learned from the mistake, such as whether our procedures can be improved or training given, so that similar errors can be avoided in future.

Taking your complaint further

3.12. If we do not succeed in resolving your complaint, you may complain to the Public Services Ombudsman for Wales. The Ombudsman is independent of all government bodies and can look into your complaint if you believe that you personally, or the person on whose behalf you are complaining:

- have been treated unfairly or received a bad service through some failure on the part of the body providing it
- have been disadvantaged personally by a service failure or have been treated unfairly.

3.13. Normally the Ombudsman will not investigate a complaint if there is a legal route you can follow to challenge a decision. The Ombudsman cannot consider the merits of Inspector's appeal decisions, which can only be challenged through the courts (see section 3 for further details).

3.14. The Ombudsman expects you to bring your concerns to our attention first and to give us a chance to put things right. You can contact the Ombudsman by:

- phone: 0300 790 0203
- e-mail: ask@ombudsman-wales.org.uk
- the website: <http://www.ombudsman-wales.org.uk>
- writing to: Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae, Pencoed CF35 5LJ

Correction of minor errors

3.16. Appeal decisions are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued.

3.17. In certain circumstances we are able to make minor changes to the decision under what is known as the 'Slip Rule'. This normally relates to minor errors in the decision such as typing mistakes or minor factual errors that do not affect the reasoning in the decision. For further information please see guidance note 'Correction of Errors under Section 56 of the Planning and Compulsory Purchase Act 2004'.

What we cannot change

3.18. We **cannot change the Inspector's decision**, or re-open the appeal once the decision has been issued.

3.19. Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached even if we acknowledge that an error has occurred. This can only be done following a successful High Court challenge (see ‘Challenging decisions in the High Court’ – below) resulting in the quashing of the original Inspector’s decision.

Learning Lessons

3.20. We take your concerns and complaints seriously and try to learn from any mistakes we’ve made. Complaints and our responses to them are therefore one way of helping us improve the appeals system.

3.21. The Planning & Environment Decisions Wales Quality and Professional Standards Committee reviews a report of all justified complaints quarterly as well as details of judicial reviews, High Court challenges and Ombudsman complaints.

Putting things right

3.22. Where maladministration or an error by Planning & Environment Decisions Wales has led to injustice or hardship, we will try to offer a remedy that returns the complainant to the position they would have been in otherwise. If that is not possible, Planning & Environment Decisions Wales will provide compensation for unnecessary expense incurred as a result of an acknowledged error where there are compelling reasons to do so.

3.23. Planning & Environment Decisions Wales will consider carefully complaints and requests for financial compensation received within 6 months of the date of the error or of any subsequent appeal decision by us related to that error.

3.24. Remedies which may be offered include:

- an apology, explanation, and acknowledgement of responsibility;
- remedial action, which may include reviewing service standards;
- revising published material; revising procedures to prevent the same thing happening again; training or supervising staff; or any combination of these;
- financial compensation for costs incurred as a result of our error.

Frequently asked questions

3.25. *“Why did an appeal succeed when local residents were all against it?”* – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds on all of the evidence whether these views justify refusing planning permission.

3.26. *“How can Inspectors know about local feeling or issues if they don’t live in the area?”* – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the appellant or their agent, the local planning authority or its policies.

However, Inspectors will be aware of policies and local views from the representations people have made on the appeal.

3.27. *“I wrote to you with my views, why didn’t the Inspector mention this?”* – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every piece of evidence.

3.28. *“Why did my appeal fail when similar appeals nearby succeeded?”*

– Although two cases may be similar, there will nearly always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits having in mind the particular evidence produced by the parties on that case (which is likely to differ from case to case).

3.29. *“I’ve just lost my appeal, is there anything else I can do to get my permission?”*

– Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can make a revised application to the local planning authority. Talking to a planning officer about this might help you explore your options.

3.30. *“What can I do if someone is ignoring a planning condition?”* – Planning & Environment Decisions Wales cannot intervene as it is the local planning authority’s

responsibility to ensure conditions are complied with. You should therefore contact the local planning authority as it has discretionary powers to take enforcement action if a condition is being ignored.

3. Challenging a decision in the High Court

3.1. **Important Note** - This Note is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person, such as a solicitor, if you intend to proceed or are unsure about any of the guidance in this Note. Further information is available from the Administrative Court (see paragraph 3.14).

3.2. High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly.

3.3. **If you want to challenge a decision in the High Court the challenge must be made:**

- for planning appeals within 42 days (6 weeks) of the date the decision was issued – this period cannot be extended;

- in most enforcement appeals, within 28 days of the date the decision was issued, although the Courts can extend this period if they consider there is good reason to do so.

3.4. Please see our separate advice notes about challenging other types of decisions, such as those relating to Rights of Way orders.

Grounds for challenging the decision

3.5. A decision cannot be challenged merely because someone disagrees with the Inspector's decision. For a challenge to be successful you would have to satisfy the High Court that the Inspector made an error in law, e.g. misinterpreting or misapplying a policy or failing to take account of an important consideration. If a mistake has been made and the High Court considers it might have affected the outcome of the appeal it will quash the Inspector's decision and return the appeal to Planning & Environment Decisions Wales for re-determination.

Challenges to planning appeal decisions

3.6. These are normally applications under section 288 of the Town & Country Planning Act 1990 to quash decisions on appeals for planning permission (including enforcement appeals allowed under ground (a) or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions challenges are made under section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. **Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.**

Challenges to enforcement appeal decisions

3.7. Enforcement appeal decisions under all grounds can be challenged under section 289 of the Town & Country Planning Act 1990. For listed building or conservation area enforcement appeal decisions challenges are made under section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under section 289 or section 65 you must first get the permission of the Court. If the Court does not consider that there is an arguable case, it can refuse permission.

Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.

Frequently asked questions

3.8. *“Who can make a challenge?”* – In planning cases, anyone aggrieved by the decision may do so. This can include interested persons as well as appellants and local planning authorities. In enforcement cases, a challenge can only be made by the appellant, the local planning authority or any other person with a legal interest in the land. Other aggrieved people may apply for judicial review by the Courts but they must do this promptly (the Administrative Court can tell you more about how to do this – see ‘Further information’ below).

3.9. *“How much is it likely to cost me?”* - An administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees – see Further information below). The legal costs involved in preparing and presenting your case in Court can be considerable, and if the challenge fails you will usually have to pay Planning & Environment Decisions Wales costs as well as your own.

However, if the challenge is successful Planning & Environment Decisions Wales will normally be required to meet your reasonable legal costs.

3.10. *“How long will it take?”* - This can vary considerably. Many challenges are decided within 6 months, some can take longer.

3.11. *“Do I need to get legal advice?”* - You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by Planning & Environment Decisions Wales legal representative.

3.12. *“Will a successful challenge reverse the decision?”* – Not necessarily. The Court can only require Planning & Environment Decisions Wales to reconsider the case and an Inspector may come to the same decision but for different or expanded reasons.

3.13. *“What can I do if my challenge fails?”* - Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Further information

3.14. Further advice about making a High Court challenge **in Wales** can be obtained from:

Administrative Court at Cardiff Civil Justice Centre
2 Park Street
Cardiff CF10 1ET

Phone: **02920 376 400**

Website: <http://www.justice.gov.uk/about/hmcts/>

Re-determination following a successful challenge

3.15. Where a challenge is successful, the appeal will be returned to Planning & Environment Decisions Wales for re-determination. We will give all High Court redetermination cases priority status, and they will normally be dealt with quickly, though without prejudicing any party. Planning & Environment Decisions Wales will usually appoint a different Inspector to re-determine the appeal.

3.16. The appeal will usually be decided by either further written representations or an inquiry. We will rarely arrange a hearing even if the original appeal was dealt with this way. We consider that a hearing decision that has been examined and quashed in the formal setting of the High Court would normally need to be re-determined under the formal inquiry procedure, in order to allow a full examination of the legal issues raised. However, where all parties agree that a hearing would be appropriate we will take this into account when determining the procedure for the re-determined appeal.

3.17. Where the appeal was originally dealt with by written representations, we would normally re-determine it by means of further written representations. However, where there has been a material change in circumstances we may consider this is no longer the most appropriate procedure.

3.18. Where the appeal was originally dealt with by an inquiry, a new one may be held. Where there have been significant changes in circumstances (e.g. new legislation or local or national policies) since the original inquiry or hearing the Inspector would normally allow the submission of further evidence to address these.

Timetable

3.19. For re-determined appeals where the inquiry is expected to last 8 days or more, Planning & Environment Decisions Wales would usually agree a bespoke timetable with the main parties to cover the dates of the inquiry, the submission of evidence and the issue of the decision or submission of the report to the Welsh Ministers, if applicable.

3.20. In other cases we would normally seek to agree dates for an inquiry or hearing in accordance with our standard practice. Where the re-determined case is proceeding by written representations we would normally contact the parties to make arrangements for a further visit, unless it has been agreed that a further visit is unnecessary.

4. Contacting Us

4.1. Planning & Environment Decisions Wales

Planning & Environment Decisions Wales
Crown Buildings
Cathays Park
Cardiff
CF1 3NQ

Phone: 0300 0604400

E-mail: pedw.casework@gov.wales

4.2. Public Services Ombudsman for Wales

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

Helpline: **0300 790 0203**

Website: <http://www.ombudsman-wales.org.uk/>

Email: <mailto:ask@ombudsman-wales.org.uk/>