

PLANNING INSPECTORATE GOOD PRACTICE ADVICE NOTE 01/2009

Further advice on applying the criteria

1. The introduction and use of Ministerial approved criteria at Annex C and Annex A of the Procedural Guidance (PINS 01/2009 and PINS 02/2009) is intended to ensure that appellants and local planning authorities make informed judgements when putting forward views as to which appeal method (procedure) best suits consideration of the appeal.

2. When submitting an appeal, the appellant is expected to pay due regard to the criteria. It is important to stress that Inspectors give the same amount of care and professionalism to a written case as they do to cases that are subject to the hearing and inquiry procedures. Moreover, the hearing process does not relieve them of the obligation placed upon them to perform an "inquisitorial" role in conducting the event and they are trained and experienced in so doing.

3. It seems fair to recognise that the published criteria cannot be fully prescriptive. However, appellants should be guided by the criteria and avoid subjective judgements when indicating their suggested method. Appellants should bear in mind that, in most cases, the Inspector will be able to understand the issues raised by the reasons for refusal and grounds of appeal (supplemented by the subsequent written representations). That documentation alongside the site visit means that it is often unnecessary for the Inspector to ask further questions to test the evidence or clarify other matters. The success of this process is aided significantly if the appeal is supported by full grounds of appeal that can be clearly understood and that fully reflect the level of agreement between the appellant and the local planning authority in respect of appellant's status, personal circumstance or technical issues.

4. Given that the decision on the appropriate procedure is taken at the outset of the appeal, appellants should explain in reasonable detail why they suggest a particular procedure especially if, on the face of it, application of the published criteria might reasonably indicate that a different procedure would be satisfactory.

5. Generally, where the Planning Inspectorate agrees with the appellants preferred method, the appeal will be started without direct reference to the local planning authority. This will avoid unnecessary delay to the appeal. Experience suggests that in the vast majority of cases the local planning authority will have no cause to disagree. However, it remains open for the local planning authority to identify any contrary view it may take. Normally, the local planning authority should do this by writing to (or preferably emailing) the Planning Inspectorate without delay, or by completion of the appeals questionnaire within the prescribed period of time. The local planning authority should, by reference to the published criteria, clearly explain why it considers that the appeal is more suited to an alternative method.

6. The Planning Inspectorate, in acting under s319A of the Planning Act 1990 (inserted by s196 of the Planning Act 2008), will at all times remain mindful of the need to ensure that its resources are used in a proportionate, efficient and customer focused manner.

The Advisory Panel on Standards

7. Section 8.2 of the Planning Inspectorate's Procedural Guidance (PINS 01/2009) outlines the role of the Advisory Panel on Standards (APOS) for the Planning Inspectorate in monitoring the Planning Inspectorate's complaint processes and the way complaints are dealt with.

8. APOS was set up as an advisory body in January 1993. It is an independent body whose purpose is to advise the Secretary of State for Communities and Local Government and the First Minister of the Welsh Assembly Government on the maintenance and enhancement of professional standards within the Planning Inspectorate and in particular:

- to prepare an annual report to the Secretary of State and the First Minister on professional quality standards within the Inspectorate;
- to indicate in the annual report whether the Planning Inspectorate's professional quality assurance, quality control and training systems are in place and functioning properly, taking account of any general improvements in service quality including improvements arising out of the Inspectorate's consideration of, and response to, individual complaints, High Court Challenges and Parliamentary and Health Service Ombudsman cases;
- to undertake specific one-off studies relevant to the Panel's quality assurance role, as requested by the Secretary of State or the First Minister.

8. The Planning Inspectorate has a target "to satisfy the Advisory Panel on Standards and thus the Secretary of State and the Welsh Assembly Government, annually and following rigorous monitoring, that the quality of the Inspectorate's work is being maintained at a high standard with 99% of its casework free from justified complaint".

9. APOS considers all complaints made against the Planning Inspectorate that the Planning Inspectorate considers to be justified to see if any lessons can be learned. It also looks at a selection of the complaints that the Planning Inspectorate has decided are unsubstantiated to consider whether the categorisation of the complaint (i.e. "justified" or "unsubstantiated") is appropriate.

10. To enable APOS to advise the Secretary of State and the First Minister effectively about matters affecting the maintenance of quality within the Planning Inspectorate, Panel members have access to

Inspectors' reports and decisions and to other relevant material associated with resolved complaints, High Court Challenges or Parliamentary and Health Service Ombudsman cases. They may also ask to see other papers prepared by the Planning Inspectorate which have a bearing on quality assurance, quality control and training systems. Subject to the agreement of the Chief Executive, Panel members shall have full access to any inquiry, hearing or meeting of the Planning Inspectorate where this would assist their work, always providing this is not opposed by any party to the appeal, hearing or inquiry.

11. In their 14th Report, relating to the standards of the Planning Inspectorate in 2007/08, APOS made a recommendation that they "should be involved in the production of criteria that the Inspectorate will use in the determination of appeals, and should see any complaints made to the Inspectorate about its decisions as to method of determination". APOS also highlighted their expectation "to examine...the Inspectorate's early decisions on mode of determination for appeals".

12. A meeting to discuss the criteria took place between APOS and the Planning Inspectorate in February 2009. APOS were informed that the criteria will be reviewed as part of the annual Business Planning Process. The review will take into account any justified complaints or successful challenges to the operation of the criteria and the views of APOS on the Planning Inspectorate's handling of such complaints and challenges.

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