



Department for
Communities and
Local Government

Technical review of planning appeal procedures

Consultation

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November, 2012

ISBN: 978-1-4098- 3670-4

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Summary of consultation

Topic of this consultation:	Investigating continual improvement of the planning appeal process for the benefit of appellants, interested parties and local authorities. The focus is to a) Make the process faster and more transparent, and b) Improve consistency and increase certainty of decision timescales.
Scope of this consultation:	<p>In summary, we are considering changes to secondary legislation and guidance to bring into effect:</p> <ul style="list-style-type: none"> ○ Earlier submission and notification of appeal statements – so interested parties see information earlier and can comment; ○ Agreeing ‘Common Ground’ upfront – so councils and appellants narrow the issues of dispute more openly and clearly; ○ Starting hearings and inquiries sooner – leading to quicker decisions, within agreed boundaries set for the Planning Inspectorate; ○ Introducing an expedited ‘Commercial Appeals Service’ – so some appeals on minor commercial developments follow a shorter process with a minimum of documentation. ○ Exploring opportunities for aligning other planning-related appeal processes – so that the number of Statutory Instruments (the legal rules and regulations) is reduced. ○ Issuing one guide to planning appeal procedures – as part of the drive to reduce planning guidance to a minimum. <p>The Planning Inspectorate is also taking steps to improve its online appeal process to speed up access to information, and may consider reviewing the appeal procedure determination criteria and its bespoke timetable service.</p>
Geographical scope:	These proposals relate to England only.
Impact Assessment:	A consultation stage impact assessment is attached to this consultation document.

Basic Information

To:	This is a public consultation and it is open to anyone with an interest in the planning appeals process to respond.
Body/bodies responsible for the consultation:	Department for Communities and Local Government and the Planning Inspectorate
Duration:	The consultation is published on 1 November 2012 and ends on 13 December 2012. This is a 6 week period.
Enquiries:	Maria Darby Tel. 0303 44 41463 E-mail: maria.darby@communities.gsi.gov.uk
How to respond:	By e-mail to AppealsReview@communities.gsi.gov.uk A downloadable questionnaire form, which can be emailed to us, will be available on our website at www.communities.gov.uk/consultations . Alternatively, paper communications should be sent to: Maria Darby Appeals Review Planning Development Management Division Department for Communities and Local Government 1/J3, Eland House Bressenden Place London SW1E 5DU
Additional ways to become involved:	This is a written exercise.
After the consultation:	A summary of responses will be published.

Getting to this stage:	A review of the appeals process was announced in the Autumn Statement in November 2011. The Autumn Statement stated 'The Government will review planning appeals procedures, seeking to make the process faster and more transparent, improve consistency and increase certainty of decision timescales.
Previous engagement:	Various consultations on changes to the planning appeal process were undertaken in 2007 and 2009 resulting in changes to legislation, including primary powers set out in the Planning Act 2008, as well as revisions to guidance including the Award of Costs Circular 2009.

Policy background

1. The Government is committed to promoting growth and employment in support of broader economic recovery. In support of this the Government is continuing its programme of reform to improve the planning system. On the 6 September 2012 the Secretary of State for Communities and Local Government announced a series of measures to speed up planning decisions and appeals, and major infrastructure. The Growth and Infrastructure Bill will take forward measures to speed up the planning process for large scale and business developments, and ensure that the information requirements of local planning authorities are proportionate. The Bill builds on earlier Government reforms such as the Localism Act 2012, the National Planning Policy Framework, and the introduction of Planning Guarantee which speeds up decision taking by local planning authorities and the Planning Inspectorate.
2. To further support the delivery of a reformed planning system, the Government announced a review of planning appeal procedures in the Autumn Statement of November 2011. The objective of this Review is to make the appeals process faster and more transparent, improve consistency and increase certainty of decision timescales, reducing wasted time and expense for all parties, and lead to quicker development where the appeal is upheld. Soundings were taken from users of the planning system to help frame the set of proposals within this consultation. [1].
3. In framing the proposals, we recognise that there must be reasonable time and opportunity for all parties to participate so that the appeal process remains fair to all [2]. However, there is scope to change some of the timescales both for the Planning Inspectorate and for the parties to the appeal.
4. In its consideration of appeal procedures, the Government has focused on the time between the start of an appeal to the issuing of the decision. It has considered whether there is opportunity to streamline the existing procedural rules and guidance around appeals, to speed up the sharing of documents and cases between parties, and to encourage earlier engagement between parties so appeals are run as efficiently as possible, and areas of dispute are narrowed.
5. Applicants generally have up to 6 months to decide to appeal, if their application is refused, and therefore have plenty of time to bring their case together. Experience shows evidence submitted late on in the process can create unhelpful delays, add unnecessary administrative burdens and can be confusing for interested parties.

¹ As set out in the Autumn Statement 2011: http://www.hm-treasury.gov.uk/as2011_documents.htm

² As set out in the National Infrastructure Plan 2011: http://cdn.hm-treasury.gov.uk/national_infrastructure_plan291111.pdf

6. As the majority of appeals that relate to the larger and more complex development proposals important for economic growth are determined at hearings or inquiries, the review has included a focus on these procedures. However there are some changes that we have considered which are relevant to all appeals procedures and which should help improve the wider service.
7. The Government's overall objective is to reduce the time taken to determine an appeal and make the appeals process more efficient, saving the appeal parties from wasted time and expense. These changes will result in a significant reduction in the time taken to determine a planning appeal, as outlined in Annex A.
8. While a key driver is to improve the timeliness of decision making by the Planning Inspectorate, all parties to the appeal need to play their part. Behaviour change by all parties to the appeal is central to the effective implementation of the proposals which signal a move away from the current adversarial approach. In future both appellants and local planning authorities will be required to be more collaborative, for example on the open early sharing of evidence and agreement of the Statement of Common Ground.
9. The benefits of the proposed changes to the appeals procedures will only be realised if all parties change their behaviour and adhere to the revised timetable. If any party to a planning appeal acts unreasonably, creating unnecessary or wasted expense for another party, then a claim for an award of costs can be submitted to recover some or all of that expense.^[3] The award of costs regime is to be strengthened to act as a further incentive to timely and positive decision taking. The Government intends to bring forward a package of primary and secondary legislative measures to extend the powers of Planning Inspectors to:
 - to initiate an award of costs, in full or in part, for all procedures, where there is evidence of unreasonable behaviour, including exceedingly slow decision taking, rather than simply reacting to a request to adjudicate on an application for an award of costs made by one of the parties to an appeal; and
 - recover the Secretary of State's costs in full or in part for all types of appeal procedures a party has been wholly unreasonable, as a further incentive to good behaviour throughout the planning process. This could include appeals where no new evidence has been provided and the party was clearly unreasonable in bringing the appeal, or where a party has been actively delaying the appeals process.These changes will be reflected in an updated Costs Awards Circular. In addition, the definition of unreasonable behaviour in the Costs Circular will be expanded to cover cases where planning authorities

³ <http://communities.gov.uk/documents/planningandbuilding/pdf/circularcostsawards.pdf>

have taken more than half a year to determine an application, reflecting the Planning Guarantee.

10. There are a large number of statutory instruments (legal rules and regulations) governing all these appeal types. The documents are listed in Annex B. Some of these rules are nearly 40 years old and there is an opportunity to ensure procedures are up-to-date, and to rationalise.

Summary of proposals

To make the process **faster** and **more transparent**;

- Ensuring earlier submission and notification of appeal statements of case
- Agreeing 'Common Ground' upfront
- Starting hearings and inquiries sooner
- Introducing an expedited 'Commercial Appeals Service'

To improve **consistency** and increase **certainty** of decision timescales;

- Aligning other planning-related appeal processes
- Issuing one guide to planning appeal procedures
- Non-regulatory actions namely:
 - Moving to a more transparent online appeal model*
 - Revising the determination criteria*
 - Agreeing bespoke timetables for more inquiries*

Previous changes

11. In May 2007 the Government consulted on proposals to make the appeals system more proportionate, customer focussed and efficient. The changes that followed shortened some of the steps in the process, and gave the Planning Inspectorate powers to determine the appeal procedure for certain appeal types. A new appeal procedure for householder applications was introduced which cut the standard time for determining these appeals from 26 to 8 weeks in most cases. In 2011-12 some 5,392 appeals, equating to 34% of the total number of appeals followed this route. [4]
12. Subsequent changes introduced in 2009 encouraged negotiation and resubmission of application proposals, with the appeal as the final resort. However there remains scope to improve the overall process. It is still the case that appellants are not always fully prepared and often submit late additional evidence which contributes to 30% of inquiries being adjourned thus adding unnecessary expense and delay to the

⁴ http://www.planningportal.gov.uk/uploads/pins/statistics_eng/stats_report_final_2011_2012.xls

other parties and the Inspectorate. Likewise, local planning authorities need to be ready to defend their decisions in a timely manner.

13. In its response to the consultation at the time, the Government stated that where reforms proved successful it would consider extending some of them to other appeal types [5].
14. The Government is now reforming the planning system so that it is less complex and confrontational, with local plans in place to form the starting point for decisions. This should result in more decisions being made at a local level with less challenge of decisions by appeal.

Current position

15. Applicants have a right to appeal against refusal of planning permission, or non-determination after a set period, by local planning authorities. There are no plans to alter the existing time period in which to appeal.
16. The planning appeals service is provided by the Planning Inspectorate on behalf of the Secretary of State. The Planning Inspectorate decided over 15,000 planning appeals in 2011-12. These are known in law as 'Section 78' appeals [6]. However for the purpose of this consultation paper they are referred to more simply as 'planning appeals'.
17. Appeals are determined by different procedures depending on the complexity of planning matters;
 - Written Representations – Where evidence is provided through correspondence only.
 - Hearing – Where it is necessary to ask questions.
 - Inquiry – Where the issues are complex and it is necessary to test evidence under cross-examination.Although an appellant may select which procedure they consider to be the most appropriate, in the majority of cases the Planning Inspectorate has the power to determine which procedure the appeal will progress by.

18. In general, the timely submission of information, exchange of comments, events and assessment of the case means most decisions can be issued in 26 weeks or earlier. However some appeals take longer to decide, either because of the late submission of evidence, or other missed deadlines by the parties to the appeal, or because of operational delays by the Planning Inspectorate such as Inspector availability. (See Table 1.)[7].

⁵ <http://www.communities.gov.uk/publications/planningandbuilding/improvingappealresponse>

⁶ Section 78 planning appeals are those made under Section 78 of the Town and Country Planning Act 1990. Appeals can be made against the decision, non-determination, or the planning conditions imposed by the local planning authority.

⁷ In 2011-12 552 out of 14,000 appeal decisions took longer than 26 weeks to determine.

19. There are also a series of other appeals closely related to planning appeals which are dealt with by the Planning Inspectorate. These types of appeal run along similar procedures but under different parts of planning law. The consultation paper refers to:

- Enforcement appeal proceedings:
- Advertisement consent appeals
- Listed Building consents, and
- Lawful Development Certificate appeals.

Table 1: Volume and timeliness of appeal determination 2011-12[8]

	Number of appeals decided	Average length of time – weeks
Section planning appeal 78 (excluding change of use)		
Householder appeals	4,990	7
Written Representations	8,191	18
Hearing	1,054	20
Inquiry	281	32
Change Of Use		
Written Representations	1248	17
Hearing	158	21
Inquiry	24	30
Advertisement consent		
Written Representations	575	17
Hearing	74	22
Enforcement		
Written Representations	1,645	20
Hearing	385	25
Inquiry	584	33
Planning Listed Building / Conservation Area Consent		
Written Representations	594	19
Hearing	103	20
Inquiry	26	27
Lawful Development Certificate		
Written Representations	185	20
Hearing	21	24
Inquiry	81	33
	20,219	

8 PINS statistical return http://www.planningportal.gov.uk/uploads/pins/statistics_eng/stats_report_final_2011_2012.xls

Proposals for making the appeal process faster and more transparent

20. We have developed a series of proposals which build on recent changes. We are aiming to create the conditions in which the time taken to determine an appeal is reduced. The process should be more efficient, saving the appeal parties from wasted time and expense. This set of proposals applies predominately to Section 78 planning appeals. Annex A provides a timeline of the current procedures and an indicative timeline demonstrating the potential impact of the proposed reforms to make the process faster.

Proposal A: Ensuring earlier submission and notification of appeal statements

21. We want to promote early and full disclosure of issues and evidence. An appeal should start in earnest more quickly so that all parties can comment on the full facts of the appeal^[9].

BACKGROUND TO THE ISSUE:

22. Statutory procedures include the submission of additional comments or statements at appeal. This is through 'further representations' for Written Representations, a 'hearing statement' for Hearings and a 'statement of case' for Inquiries. These are currently submitted 6 weeks from the starting date for each procedure.
23. While much has been done since 2009 to speed up the sharing of documents and discussion of issues, this does not happen in all cases. It seems a fair challenge that since most appellants have had 6 months in which to appeal they should be fully ready for appeal; there should be little that is 'not known' when they appeal. Therefore there is no reason why the full case of the appellant should not be made available to local planning authorities and interested parties at the start of the appeal.

THE PROPOSAL:

24. We **propose** to amend the rules and regulations ^[10] to:
- require the appellant to submit their **full** appeal statement as part of their grounds of appeal on submission of the appeal, and

⁹ For the expedited Householder Appeal Service third parties do not comment on the appeal, but all comments made at the application stage are considered by the inspector

¹⁰ for example Article 33 of the Development Management Procedure Order 2010, and the Hearings and inquiries Rules 2000

- to ensure local planning authorities notify interested parties within one week rather than the current timetable of 2 weeks after they have received notice of a valid appeal. This would happen at the time the authority submits its questionnaire form to the Planning Inspectorate, a week earlier than is currently the case.

25. We believe requiring the appellant to set out the details of their full case at the submission stage is more transparent, and will mean that interested parties can see the key issues at the time that they have the opportunity to comment. This will encourage earlier engagement on the key issues. The proposals will speed up the appeals process by removing the opportunity for parties to introduce evidence at the statement stage that should have been submitted at the start of the appeal, and which can lead to an adjournment or delay in the proceedings to provide sufficient time for other parties to consider it. This change will ensure that in most cases all the evidence will be available at an early stage in the process. Only in respect of inquiries will the submission of more detail, in the form of proofs of evidence, be acceptable.

Q1: Do you agree with the proposed changes to the appeal procedure?

Proposal B: Agreeing ‘Common Ground’ upfront

26. We intend to speed up the sharing of documents, narrow the areas of dispute, and focus parties’ effort on the main issues. This will ensure parties engage effectively pre appeal and with full knowledge at the early stage of an appeal.

BACKGROUND TO THE ISSUE:

27. Currently where an appeal is determined at inquiry, the appellant is required to submit a ‘Statement of Common Ground’ agreed with the local planning authority – to identify agreed matters which do not need to be considered at the event – 6 weeks after the start of the appeal.

28. Agreeing common ground is useful for appeal parties and inspectors to help narrow the areas of dispute. However the process can be time consuming for the parties involved and if not engaged with in good faith or if begun late in the process, it gives parties little time to respond to the others’ points.

THE PROPOSAL:

29. We **propose** to bring discussion on common ground issues to the forefront of the appeal process. To achieve this we will amend the Development Management Procedure Order and the Inquiry Rules to

require the appellant to table a first draft of a document containing the factual background to the case at the time they make the appeal.

30. The local planning authority would then have until week 5 to negotiate with the appellant a final version of the agreed matters which should then require no or little consideration at the event. If the local planning authority does not signal to the appellant that they disagree with the appellant's facts then they will be considered to be uncontested by the local planning authority.
31. Agreeing the Statement of Common Ground earlier will lead to more focussed evidence being presented to the inquiry and avoid time being taken on matters that are not material. There may also be merit in asking for a Statement of Common Ground for other appeal routes, such as hearings.

Q2: Do you agree with the proposed approach to agreeing a Statement of Common Ground up front, and that a Statement should be required for hearings?

Proposal C: Starting hearings and inquiries sooner

32. We want parties to be prepared to present their case earlier, and set tighter guidelines for Planning Inspectorate timetabling.

BACKGROUND TO THE ISSUE:

33. Secondary legislation sets out the expected length of time by which an appeal should be held in public. Longer is allowed where these targets are considered impracticable by the Secretary of State (or Planning Inspectorate). The current rules state that the appeal event should be held within 12 weeks for a hearing [11], and 20 weeks for inquiries [12].
34. We are proposing changes to better deliver this target as at present only around 20% of hearings are held by week 12 (with 80% held by week 16) and 60% of inquiries by week 20. In practice, these delays are sometimes because representations have not been submitted in time, or because a party has requested a delay, as well as Inspector availability. In addition inquiries and hearings can overrun because not enough time is allocated for them based on the information submitted by appeal parties.

THE PROPOSAL:

35. We **propose** to shorten the time between the start of the appeal and the appeal event. To do this we will amend the relevant secondary

11 Town and Country Planning (Hearings Procedure) (England) Rules 2000

12 Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

legislation to set the expectation that an inquiry determined by an inspector should be held not later than 16 weeks (and for hearing not later than 10 weeks) after the starting date unless such a date is considered impracticable – such as late submission of representations, or other action by the parties, or because a longer timeframe is agreed between the parties.

36. This will generally improve the timeliness of decision making, bringing the opportunity for hearings and inquiries forward by 2 and 4 weeks respectively, while retaining sufficient flexibility for appeal parties in organising their time and for the Planning Inspectorate to deliver decisions earlier. In practice, based on current performance the time saving will be significantly greater than this, for example in the order of 6 weeks for hearings. This time saving is in part possible because all the material required for the appeal will be provided earlier in the process. Improvements to the Inspectorates administrative processes and the planning and timetabling of their Inspectors will enable the Inspectorate to hold appeal events earlier.
37. In conjunction with the other proposals in this consultation, success will be dependent on appeal parties fully engaging with the process, keeping to the timetable and submitting information in a timely manner. The revised target deadlines will apply where deadlines for all other stages in the appeal have been met. The Planning Inspectorate can only act effectively if they receive accurate and open details of the case and the number of witnesses.
38. Having given earlier thought to the grounds of appeal, parties should be better placed to identify the number of witnesses they will need to call and the length of time needed to give evidence and, if necessary, cross-examine. Therefore in amending the rules on submitting appeal statements (Proposal A) we also propose to make it a requirement that parties provide information on the appeal forms of the number of witnesses and the length of time they need to give their evidence. This will enable more precise assessment of expected duration at the outset and enable inspectors to prepare reliable timetables and run events more strictly according to those timetables. Model appeal forms and questionnaires will be revised accordingly. Inspectors would be enabled to hold parties to their forecast time estimates unless the party can demonstrate that there has been a clear change in circumstances which warrants them being granted more time to present their evidence.
39. If a party extends their evidence beyond their submitted estimate without adequate reasons then the Inspector could challenge them on their timetable and whether anything new is going to be said. If the party continued beyond the timetable following such challenge other parties could apply for costs if the extended period did not result in evidence being presented that was not previously covered in the

written or oral evidence to that point. New separate legislation will enable Inspectors to initiate costs in future.

40. The earlier provision of information, a clearer view on the key planning issues and common ground, together with administrative changes to the way the Planning Inspectorate deliver, will also lead to time savings after the event meaning that decision letters can be issued earlier. Thus in the case of hearings, there could be an overall time saving of 7 weeks, as the average event takes place 6 weeks earlier, and the decision letter issued a further week earlier than currently. If all parties adhere to the revised timetables decision letters in regard to inquiries would on average be issued 9 weeks earlier than currently.

Q3: Do you agree with the proposed approach to shortening the time before the appeal event?

Proposal D: Introducing an expedited 'Commercial Appeals Service'

41. The Government has recently announced that planning appeals related to major commercial and residential developments, equating to some 38% of the total number of appeals, will be given priority and a decision made in the shortest possible time. Separate discussions are also underway regarding the Section 106 appeal process and timescale. We want to create more opportunities for smaller scale, less complex, commercial developments to follow a quicker appeal route in order to promote growth.

BACKGROUND TO THE ISSUE:

42. The introduction of a Householder Appeals Service^[13] in 2009 has been successful in reducing the time taken to determine less complex small scale cases to, in most cases, 8 weeks. This provides an expedited written representations procedure for some 35 % of planning appeals, and has proved popular with appellants and local planning authorities alike. The scope of the appeals which are suitable for this route is clearly defined, based on the householder application for planning permission, enabling appellants to know whether their appeal is suitable and therefore whether they have a shortened time in which to appeal. Appellants have 12 weeks in which to appeal. A key feature of the expedited process is the reliance on the local planning authority's application case documentation. Therefore, there is no further opportunity for interested third parties to provide additional comment as the third party comments made at the application stage form part of the documentation. The service is well used and delivers

¹³ The Householder appeals service now accounts for 34% of the total Section 78 caseload, with 91% of such appeals determined within 8 weeks, compared with the average for other written representations of 17 weeks. It offers a faster service by reducing the opportunity to provide further evidence at additional points in the process.

substantial resource savings for the appeal parties. However it is not suitable for all appeals, particularly complex cases where evidence needs to be tested. In such cases the Planning Inspectorate will determine that the appeal should follow an alternative procedure and the Planning Inspectorate retains the power to change the procedure should an appeal cease to be appropriate for the expedited process.

43. We believe that there is scope to introduce an expedited procedure for appeals on some minor commercial planning applications. How it would work will depend on the degree to which similar principles can apply i.e. where the planning issues raised are straight forward, the appeal can be dealt with without the need for further representations, and there is not a significant level of broader community interest.
44. In addition, we believe there is merit in applying this more transparent legislative process to Advertisement Consent appeals to allow for more consistent administration of the process by the Planning Inspectorate. Currently the Advertisement Consent appeal procedures are only set out in guidelines. While the existing timetable set out in guidance is quite short, it allows scope for the appellant to delay putting forward a full case early in the process.

THE PROPOSAL:

45. We **propose** to establish a Commercial Appeals Service (CAS); an expedited form of the written representations procedure. This would offer a faster commercial planning appeal procedure for less complex appeals, enabling the Inspectorate to make a decision in 8 weeks. We propose that there would be only 12 weeks in which to appeal, rather than the usual 6 months. Therefore it would be essential to easily identify which appeals could proceed under the simplified appeal procedure at the planning application stage. This would also enable the local planning authority to notify interested parties at the application stage that there would not be a further opportunity to make comment should the application go via the expedited appeal route. The Planning Inspectorate would retain the power to determine the appropriate appeal procedure where an individual case was not appropriate for an expedited process. There would be an element of choice for qualifying commercial appeals such that an appellant would specifically opt in to the fast track appeal or if an appeal was submitted after 12 weeks (and within the 6 months) it would follow the standard written representations procedure.
46. Appeals determined by the Commercial Appeals Service would be based on the appellant's brief appeal statement plus the original planning application documentation and any comments made at the application stage (including those of interested parties). Recognising that these should be for less complex cases, we **propose** that a total word limit is applied to the appellant's statement. The volume of material submitted with appeals can add to the time taken to determine

them yet it is often not essential to the appeal. Creating a word limit would impose a discipline on appellants to focus evidence on the reasons for refusal/main issues. There would be no need for exchange of evidence or further comments. This could save time and money for all parties involved. At the same time, we additionally propose to extend and this word limit to future Householder Appeal Service appeals for the same reasons.

47. An initial range of appeals that we believe would benefit from this approach include:

- Advertisement consent appeals [14].
- Appeals on changes to shop fronts,
- Change of use and other minor development that relates to straight forward proposals of under 1000m².

We estimate that using this broad definition, approximately 1,600 planning appeals (11%) will be in scope per annum, plus circa 550-600 advertisement consent appeals. Views are invited on whether any other types of appeals could additionally be brought into scope.

Q4: Do you agree with the proposals for the development of a Commercial Appeals Service?

Q5: What type of less complex non-householder written representations appeals would benefit from inclusion in a Commercial Appeals Service?

¹⁴ 575 received in 2011/12.

Proposals for improving the certainty and consistency of the process

48. It is important for appellants and local planning authorities to be able to manage their time and resources effectively through an appeal process that has certainty on the key milestones. This gives interested parties better opportunity to engage with the appeal process, which can at times feel remote.
49. To support the continuous improvement of the Planning Inspectorate service to its customers, proposals have been developed which together should bring better practice to the appeals service. This set of proposals applies to a broader range of appeals, including enforcement, and Listed Building consents etc.

Proposal E: Aligning other planning-related appeal processes

50. We want to align as many of the different appeal procedures as possible to make the process clearer for their customers.

BACKGROUND TO THE ISSUE:

51. The procedures for planning appeals – written representations, hearings and inquiries - have been amended over a period of time and are now set out in a number of statutory instruments (the legal rules and regulations).
52. There are other planning-related appeals which are outlined on page 8 of the consultation paper. There may be opportunity to consider applying some of the streamlining of processes undertaken in 2009 to these appeal procedures - for example Enforcement, Listed Building consents and Lawful Development Certificate appeals - so that, wherever possible, they are the same. Annex B sets out the range of Statutory Instruments.

THE PROPOSAL:

53. We **propose** that:
- The existing rules and regulations will be amended so that the Planning Inspectorate is allowed to determine the procedure (in consultation with appellants and local planning authorities) for other types of appeals, such as Advertisement consent, Listed Building and Lawful

Development Certificate appeals. They can already do this for Section 78 and Enforcement appeal proceedings. The change will, for example, enable the Planning Inspectorate to choose the most appropriate procedure where a Listed Building appeal is linked to a planning appeal.

- The rules governing Enforcement appeals could be amended to bring Enforcement hearings and inquiries into line with the procedural changes made in 2009 to planning appeals. At that time the stage at which parties could make additional comments (known as the Week 9 stage) was removed from planning appeal hearings and inquiries as it was proven that there was sufficient time to state the case elsewhere in the process.
- Additionally, there is opportunity to consider whether any of the changes we propose to planning appeals in proposals A to C of this consultation should be applied more widely to other appeal proceedings, in particular enforcement appeals. By their nature, appellants in these cases do not have up to six months to prepare their case, and therefore a different consideration needs to be given to whether shortening the appeal procedure timescales would give appellants a fair opportunity to gather and present all their evidence.
- Finally, the rules and regulations that set out the appeals procedures will be brought together into a form that would be most helpful to the user. This would make it clearer to understand what is the most up-to-date and correct process to follow. The intention is to simplify and merge the statutory instruments where this would be helpful to users, leading to clearer processes and a reduction in the number of documents that need to be cross referenced by users.

Q6: Do you agree with the proposed approach to align other appeal processes?

Q7: Do you have a view on whether proposals A-C should be applied more broadly to other types of appeals, in particular enforcement, and whether the further comments stage at week 9 should be removed from Enforcement hearings and inquiries?

Proposal F: Issuing one guide to planning appeal procedures

54. We want to reinforce key aspects of Government guidance to drive behaviour change to make the appeal process more effective

BACKGROUND TO THE ISSUE:

55. The National Planning Policy Framework has reduced more than 1000 pages of policy down into one document of around 50 pages.
56. Appellants and local planning authorities currently draw on a suite of other guidance documents for information about the appeal process, amounting to around 300 pages. This includes the existing 'Planning Circulars' and other formal Procedural Guidance, as well as 17 good practice advice notes issued by the Planning Inspectorate.

THE PROPOSAL:

57. We **propose** to issue a single, streamlined, clear procedural note on appeals. Where it is necessary to do so over and above that set out in the legislation, the document will outline legal procedures in relation to general planning as well as the planning-related procedures for Enforcement, Advertisement and Listed Building consent appeals. The document would set out national criteria and guidance on appeals and set expectations for appeal party documentation and evidence. It would also offer clarity on any grounds for a submission for an award of costs.
58. More broadly, the Government has announced a review of planning practice guidance, led by Lord Taylor.¹⁵ The review will streamline planning guidance to make the planning system swifter and more accessible. The work to review the planning appeals guidance will be aligned with this broader review in order to support effective planning.

Q8: Do you agree with the proposed approach to reviewing and simplifying guidance?

NON-REGULATORY ACTIONS:

59. We are also proposing other actions which do not rely on changes to regulations. These are under consideration as part of our ongoing dialogue on the continuous improvement of the appeals service for customers.

MOVING TO A MORE TRANSPARENT ONLINE APPEALS MODEL

60. The current appeal procedure rules were developed based on paper communication and they follow the pace at which hard copy documents can be exchanged by post. Currently, the majority of appeals are initially submitted electronically to the Planning Inspectorate via the Planning Portal though many parties then complete the process using hard copy. The Planning Inspectorate does not handle all of its appeals

¹⁵ <http://www.communities.gov.uk/newsstories/newsroom/2236539>

electronically due for example to limitations of its casework management system.

61. Increased e-handling in line with the Governments broader Digital by Default agenda would assist the Planning Inspectorate to streamline some of its business processes. Appellants will be further encouraged to submit appeals on-line. The future development of systems by the Planning Inspectorate has the potential to deliver efficiencies and enable transparent tracking of appeals by interested parties and appellants.

REVISING THE DETERMINATION CRITERIA

62. The current criteria that the Planning Inspectorate use to determine the correct procedure for planning appeals and Enforcement appeals were drawn up in 2009 and are set out in the Planning Inspectorates Procedural Guidance¹⁶. After three years of operation, we now **propose** to review the criteria to clarify:
- the text so that it is clearly understood what kind of reasons indicate that any particular appeal procedure be followed, thereby reducing the likelihood of challenge and subsequent delay.
 - the existing guidance on contentious proposals that have generated significant local interest, to make it clear that a hearing or inquiry will be arranged where the local planning authority is aware that there is significant local interest **and** that:
 - (i) it demonstrably requires that an Inspector hears evidence and / or asks questions of appeal parties, and
 - (ii) where the local authority considers that (and can explain why) there is good reason to expect that it is necessary for the significant public representation to give evidence at an oral event.

Q9: Do you agree with the proposed revisions to the determination criteria?

AGREEING BESPOKE TIMETABLES FOR MORE INQUIRIES

63. Around 10% of inquiries (those sitting for 6 or more days) currently benefit from a bespoke procedure which offers a flexible process for the most complex cases which meets the needs of the appeal parties - but sometimes result in longer appeals than 26 weeks. This is valued by and popular with parties as the appeal runs to a timetable agreed amongst the parties. Extending this to more inquiries could bring a

¹⁶ Procedural Guidance: Planning appeals and called-in planning applications (PINS 01/2009), and Procedural Guidance: Enforcement appeals and determination of appeal procedure (PINS 02/2009.)

significant number of inquiries in scope, for example 70% of all inquiries sat for 3 or more days in 2011/12.

64. Certainty over the timetable and date of the event enables parties to plan submissions and attendance most effectively. Any reduction in adjournments avoids wasted time and effort. It gives the parties flexibility to agree shorter or longer timescales to meet their needs in regard to an individual appeal. We therefore **propose** to offer a bespoke timetable to inquiries forecast to last 3 days or more.

Q10: Do you agree with the proposal to extend the offer of a bespoke procedure to inquiries lasting 3 or more days?

Q11: Do you have any other proposals to further improve the appeals system?

Consultation questions - response form

The Government welcomes your views on all aspects of the proposals set out in this consultation.

How to respond:

The closing date for responses is 13 December 2012.

This response form is saved separately on the DCLG website.

Responses should be sent preferably by email:

Email responses to: AppealsReview@communities.gsi.gov.uk

Written responses to:

Maria Darby
Review of planning appeal procedures - Consultation
Planning - Development Management Division
Department for Communities & Local Government
Zone 1/J3, Eland House
Bressenden Place
London
SW1E 5DU

About you

i) Your details:

Name:	
Position:	
Name of organisation (if applicable):	
Address:	
Email:	
Telephone number:	

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

- Organisational response ☐
- Personal views ☐

iii) Please tick the box which best describes you or your organisation:

- District Council ☐
- Metropolitan district council ☐
- London borough council ☐
- Unitary authority/county council/county borough council ☐
- Parish council ☐
- Community council ☐
- Non-Departmental Public Body (NDPB) ☐
- Planner ☐
- Professional trade association ☐

- Land owner ☐
- Private developer/house builder ☐
- Developer association ☐
- Residents association ☐
- Voluntary sector/charity ☐
- Other ☐

(please comment):	
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**iv) What is your main area of expertise or interest in this work
(please tick one box)?**

- Chief Executive ☐
- Planner ☐
- Developer ☐
- Surveyor ☐
- Member of professional or trade association ☐
- Councillor ☐
- Planning policy/implementation ☐
- Environmental protection ☐
- Other ☐

(please comment):	
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Would you be happy for us to contact you again in relation to this questionnaire?

Yes ☐ No ☐

Questions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Q1: Do you agree with the proposed changes to the appeal procedure?

Yes ☐ No ☐

Comments

Q2: Do you agree with the proposed approach to agreeing a Statement of Common Ground up front, and that a Statement should be required for hearings?

Yes ☐ No ☐

Comments

Q3: Do you agree with the proposed approach to shortening the time before the appeal event?

Yes ☐ No ☐

Comments

Q4: Do you agree with proposals for the development of a Commercial Appeals Service?

Yes ☐ No ☐

Comments

Q5: What type of less complex non-householder written representations appeals would benefit from inclusion in a commercial appeals service?

- ☐ Advertisement consent ☐ Change of shop front
- ☐ Change of use ☐ Minor development less than 1000m²
- ☐ Other (please note below)

Comments

Q6: Do you agree with the proposed approach to align other appeal processes?

Yes ☐ No ☐

Comments

Q7: Do you have a view on whether proposals A-C should be applied more broadly to other types of appeals, in particular enforcement, and whether the further comments stage at week 9 should be removed from Enforcement hearings and inquiries?

Yes ☐ No ☐

Comments

Q8: Do you agree with the proposed approach to reviewing and simplifying guidance?

Yes ☐ No ☐

Comments

Q9: Do you agree with the proposed revisions to the determination criteria?

Yes ☐ No ☐

Comments

Q10: Do you agree with the proposal to extend the offer of a bespoke procedure to inquiries lasting 3 or more days?

Yes ☐ No ☐

Comments

Q11: Do you have any other proposals to further improve the appeals system?

Yes ☐ No ☐

Comments

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Impact Assessment

**The consultation includes a draft impact assessment of the proposals.
*Do you have any comments or additional evidence on the costs and benefits of the proposals?***

A: Securing earlier submission and notification of appeal statements

B: Agreeing 'Common Ground' upfront

C: Starting hearings and inquiries sooner

D: Introducing an expedited 'Commercial Appeals Service'

Full package of proposals A-D for making the appeal process faster and more transparent

E: Aligning other planning-related appeal processes

F: Issuing one guide to planning appeal procedures

Full package of proposals E-F for improving the certainty and consistency of the process

Combined approach – total package of proposals A-F

Yes ☐ No ☐

Comments

Thank you for your comments.

About this consultation

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department, Communities and Local Government, will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to interested parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

If you have any queries regarding this consultation process, please contact:
DCLG Consultation Co-ordinator.

Zone 4/H3
Eland House
London
SW1E 5 DU

E-mail address: consultationcoordinator@communities.gsi.gov.uk

Annex A

Comparison of key stages in current and proposed revised planning appeal process and timeline for Section 78 Planning Appeals

Current timeline for 2011-12 based on existing rules and regulations

	PINS receive appeal	Start date confirmed within 7 working days	Start Date (SD) + Week 1	Week 2	Week 5	Week 6	Week 7	Week 8	Week 9	After week 10	By week 12	By week 14	By week 16	By week 18	By week 20	By week 21	By week 22	Week 24	Week 26	Week 28	By week 31
Planning Inspectorate (PINS)		All procedures - PINS validate appeal and determine procedure. Start date confirmed.				All procedures - PINS 'cross-copy' LPA, appellant and third party representations				PINS HOLD SITE VISIT	TARGET DATE FOR PINS TO HOLD HEARING		Average date for PINS to hold hearing.		TARGET DATE FOR PINS TO HOLD INQUIRY	Average time by which PINS issue decision letter following hearing. Average					Average time by which PINS issue decision letter following inquiry.
Appellant	All procedures Appeal submitted. Grounds of appeal and essential documents provided to PINS.					All procedures - Where the appellant think it necessary, submit further comments. Inquiries only - Appellant and LPA submit an agreed Statement of Common Ground			Written Reps Only - LPA and Appellant may comment on each others representations and respond to any interested (third) party representations received by PINS at 6 weeks.				Inquiry only. 4 weeks prior to inquiry - date for submission of Proofs of Evidence								
Local Planning Authority				All procedures - LPA submit appeals Questionnaire. May elect to treat questionnaire as full representations.		All procedures - Where LPA think necessary, submit further comments. Inquiries only - Appellant and LPA submit an agreed Statement of Common Ground			Written Reps Only - LPA and Appellant may comment on each others representations and respond to any interested (third) party representations received by PINS at 6 weeks.				Inquiry only. 4 Weeks prior to inquiry - date for submission of Proofs of Evidence								
Interested parties				All procedures - LPA notify interested parties of appeal and give deadline for comment		All procedures - Interested (third) party comments due.							Inquiry only - 4 weeks prior to inquiry - date for submission of Proofs of Evidence by Rule 6 parties.								

Indicative future timeline based on implementing options A-C																					
	PINS receive appeal	Start date confirmed within 7	Start Date (SD) + Week 1	Week 2	Week 5	Week 6	Week 7	After week 8	Week 9	By week 10	By week 12	By week 14	By week 16	By week 18	By week 20	By week 21	By week 22	Week 24	By week 26	Week 28	By week 31
Planning Inspectorate (PINS)		All procedures - PINS validate appeal and determine procedure. Start date confirmed.						PINS HOLD SITE VISIT		TARGET DATE FOR PINS TO HOLD HEARING		PINS issue decision letter following hearing.	TARGET DATE FOR PINS TO HOLD INQUIRY				PINS issue decision letter following inquiry.		Planning Guarantee performance measure		
Appellant	All procedures Appellant to submit full statement of case and essential docs to PINS, including draft Statement of Common Ground for Inquiries				Inquiries only Appellant and LPA to 'finalise' Statement of Common Ground.		Written Reps Only - Appellant to respond to LPA week 5 submissions and/or third party representations				Inquiry only. 4 weeks prior to inquiry - date for submission of Proofs of Evidence										
Local Planning Authority			All procedures - LPA submit appeals Questionnaire. May elect to treat questionnaire as full representations		All procedures - Where LPA think necessary, submit further representations (Statement). Inquiries only - Appellant and LPA to 'finalise' Statement of Common Ground.		Written Reps Only - LPA may respond to week 5 submissions from third parties				Inquiry only. 4 weeks prior to inquiry - date for submission of Proofs of Evidence										
Interested parties			All procedures - LPA notify interested parties of appeal and give deadline for comment		All procedures - Interested (third) party comments due						Inquiry only - 4 weeks prior to inquiry - date for submission of Proofs of Evidence by Rule 6 parties.										

Annex B

Background information on appeal procedures

The relevant references to the Planning Acts, statutory instruments and guidance are noted below:

Planning Acts

- Planning (Listed Buildings and Conservation Areas) Act 1990
- Town and Country Planning Act 1990
- Planning (Hazardous Substances) Act 1990

Statutory Instruments

- Town and Country Planning (Inquiries Procedure) Rules 1974, SI 1974/419
- The Planning (Hazardous Substances) Regulations 1992 - SI 1992 No. 656
- Town and Country Planning (Hearings Procedure) (England) Rules 2000, SI 2000/1626
- Town and Country Planning (Inquiries Procedure) (England) Rules 2000/1624
- Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, SI 2000/1625
- Town and Country Planning (Enforcement) (Enforcement Notices and Appeals) (England) Regulations 2002, SI 2002/2682
- Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002, SI 2002/2683
- Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002, SI 2002/2685
- Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002, SI 2002/2684
- Town and Country Planning (Enforcement) (Inquiries Procedure) (England) Rules 2002, SI 2002/2686
- Town and Country Planning (Control of Advertisements)(England) Regulations 2007, SI 2007/783
- Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009, SI 2009/452
- Town and Country Planning (Determination of Appeal Procedure) (Prescribed Period) (England) Regulations 2009, SI 2009/454
- Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009, SI 2009/455
- Planning (Hazardous Substances) (Amendment) (England) Regulations 2009 - SI 2009 No. 1901
- Town and Country Planning (Development Management Procedure) (England) Order 2010, SI 2010/2184
- Town and Country Planning (Tree Preservation)(England) Regulations 2012, SI 2012/605

Planning Inspectorate (PINS) guidance

- Procedural Guidance: Planning appeals and called-in planning applications (PINS 01/2009)
- Procedural Guidance: Enforcement appeals and determination of appeal procedure (PINS 02/2009.)
- PINS/GPA Note 01: Further advice on applying the criteria
- PINS/GPA Note 02: Householder Appeals Service
- PINS/GPA Note 03: Called-in planning applications
- PINS/GPA Note 04: Secretary of State recovered appeals
- PINS/GPA Note 05: Bespoke Casework Service
- PINS/GPA Note 06: Communicating electronically with the Inspectorate
- PINS/GPA Note 07: Nature and content of appeal documents
- PINS/GPA Note 08: Guidance on statements of common ground
- PINS/GPA Note 09: Amendments to schemes (Wheatcroft)
- PINS/GPA Note 10: Introducing new material at appeal
- PINS/GPA Note 11: Meeting the timetables
- PINS/GPA Note 12: Fixing dates
- PINS/GPA Note 13: Appeal procedures - Events
- PINS/GPA Note 14: Correction of Errors
- PINS/GPA Note 15: Challenges and complaints
- PINS/GPA Note 16: Submitting planning obligations
- PINS/GPA Note 17: Advertisement appeals and related issues - England

Title: Consultation on the review of planning appeal procedures. IA No: Lead department or agency: Department for Communities and Local Government Other departments or agencies: Planning Inspectorate	Impact Assessment (IA) Date: 16/07/2012 Stage: Consultation Source of intervention: Domestic Type of measure: Secondary Legislation Contact for enquiries: Maria Darby
Summary: Intervention and Options	RPC Opinion: AMBER

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?	
£46.1m	£25.8m	– £2.77m	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?

Currently, where planning applications go to appeal it can take up to a year for a decision to be made. Appeals determined via hearings or inquiries – which often relate to larger scale developments - are particularly likely to take longer than the performance measure of 26 weeks. This delays the delivery of appropriate sustainable development necessary for economic growth, and imposes costs on parties to the appeal. The Government has introduced a planning guarantee to ensure that no planning application takes longer than a year for a decision, including any time spent at appeal. It is now reviewing appeals procedures, as announced in the 2011 Autumn Statement, to make the process faster and more transparent, improve consistency and increase the certainty of decision timescales for appellants.

What are the policy objectives and the intended effects?

The objectives of the review are to reduce the time taken to determine a planning appeal, thus contributing to cutting the costs to local planning authorities and appellants of participating in the process (including costs arising from delays to the start of work on appropriate developments), and at the same time make the process more transparent and collaborative. Appellants and local planning authorities will save wasted expense on expert and legal representation by focussing proceedings on key issues and reducing adjournments.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Four options have been considered:

1. Do nothing
2. Measures to make the process faster and more transparent
3. Reforms to improve consistency and increase certainty of decision timescales
4. Combined approach (options 2 and 3)

The preferred option (4) encompasses a package of technical amendments to the framework and guidance governing the appeals procedure that will bring about cumulative improvement in the planning appeal process both in regard to the certainty of the timeline of the process and the timeliness of decision making. The proposals will meet the overall objectives of the review, and bring benefits through faster decision making and a reduction in unnecessary work.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 06/2015

Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: _____

Date: _____

Summary: Analysis & Evidence Policy Option 2

Description: Measures to make the process faster and more transparent

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £46.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		£280,000	£280,000

Description and scale of key monetised costs by 'main affected groups'

Starting hearings and inquiries sooner, is estimated to result in transitional costs to the Planning Inspectorate of up to £200,000. This arises from the need to re-engineer the scheduling process and make the move from the existing timeframe to the proposed arrangements. This will enable implementation of the revised timetable by employing additional staff and other resources. There may be further up-front administrative costs to the Planning Inspectorate of £30,000 to update procedural guidance and £50,000 from familiarisation (staff training) if a commercial appeals service is introduced.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0		
High			
Best Estimate		£0	£46.4m

Description and scale of key monetised benefits by 'main affected groups'

Appellants could benefit in the order of £39.2m from being able to commence (or exit from) proposed development more quickly as a result of more timely decision-making, and reduced expenses incurred in relation to nugatory work, arising from earlier agreement of the issues to be considered and shortening the time at event. In the case of local planning authorities, benefits are estimated at £6.8m. Ongoing, shorter event times are likely to lead to reduced staffing and administrative costs totalling £360,000 at the Planning Inspectorate.

Other key non-monetised benefits by 'main affected groups'

Opportunity for some appeals determined through the written representations procedure could be shortened by 2 weeks. Opportunity for the time to some hearings and inquiries to be shortened by an additional 2 and 4 weeks respectively while protecting the time allowed to interested parties including local residents and the wider community to provide statements.

Interested parties will benefit by being able to see the appellants Statement of Case at the time that they provide their comment, potentially improving the quality of their engagement with the appeals process.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
<p>The IA does not model the impact of wider planning reforms, such as the introduction of the National Planning Policy Framework and neighbourhood planning.</p> <p>The assessment assumes that neither local planning authorities nor appellants will incur additional costs as a result of bringing forward the activities they undertake to earlier stages of proceedings.</p>		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: £2.77m	Net: -£2.77m		
			Yes	Out

Summary: Analysis & Evidence Policy Option 3

Description: Reforms to improve consistency and increase certainty of decision timescales

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate
					-£30,000

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		£30,000	£30,000

Description and scale of key monetised costs by 'main affected groups'

There may be a small transitional cost to PINS/DCLG of around £30,000 in drafting the revised guidance and taking forward the necessary secondary legislation.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

A consolidated and simplified set of guidance should reduce the amount of time spent by parties to the appeal on understanding what is required of them during the process. Improvements to guidance that bring greater clarity to the process and promote constructive behaviours should also reduce staff costs and time at the appeal event, resulting in further unquantified savings to appellants and local authorities.

Other key non-monetised benefits by 'main affected groups'

The suite of proposals are focused on making the process better; improving the consistency of the process and the certainty of decision timescales, they should ensure a more transparent process, and behaviour change by all parties. An important focus of the review is on narrowing the issues on appeal that can help to reduce paperwork and the time at event

Key assumptions/sensitivities/risks	Discount rate (%)
<p>The IA does not model the impact of wider planning reforms, such as the introduction of the National Planning Policy Framework and neighbourhood planning.</p> <p>The assessment assumes that neither local planning authorities nor appellants will incur additional costs as a result of bringing forward the activities they undertake to earlier stages of proceedings.</p>	3.5%

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net: -	Yes	n/a

Summary: Analysis & Evidence Policy Option 4

Description: Combined approach

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: £46.1m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	1		
High			
Best Estimate		£310,000	£310,000

Description and scale of key monetised costs by 'main affected groups'

Starting hearings and inquiries sooner, could result in transitional costs to the Planning Inspectorate of up to £200,000, to enable the re-engineering of the scheduling process and the implementation of the revised timetable by employing additional staff and other resources. There may be further up-front administrative costs to the Planning Inspectorate of £60,000 to update procedural guidance and take forward the necessary secondary legislation and £50,000 from familiarisation (staff training) if a commercial appeals service is introduced.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	1		
High			
Best Estimate		£5.4m	£46.4m

Description and scale of key monetised benefits by 'main affected groups'

Appellants could benefit in the order of £39.2m from being able to commence (or exit) development more quickly as a result of more timely decision-making, and reduced expenses incurred in relation to nugatory work, arising from earlier agreement of the issues to be considered and shortening the time at event. In the case of local planning authorities, benefits are estimated at £6.8m. Ongoing, shorter event times are likely to lead to reduced staffing and administrative costs totalling £360,000 at the Planning Inspectorate.

Other key non-monetised benefits by 'main affected groups'

Opportunity for appeals determined through the written representations procedure could be shortened by 2 weeks. The timing of hearings and inquiries may be shortened by an additional 2 and 4 weeks respectively. Behaviour change by the key parties should lead to a more collaborative and transparent process, whereby areas of common agreement are identified early-on, enabling a speedier focus on the key issues and reducing appeal documentation, while preserving the opportunity for effective engagement of neighbours and the wider local community. This saves wasted time and effort by all parties.

Key assumptions/sensitivities/risks

Discount rate (%)

3.5%

The IA does not model the impact of wider planning reforms, such as the introduction of the National Planning Policy Framework and neighbourhood planning.

The assessment assumes that neither local planning authorities nor appellants will incur additional costs as a result of bringing forward the activities they undertake to earlier stages of proceedings.

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0	Benefits: £2.77m	Net: -£2.77m	Yes	Out

Review of planning appeal procedures – evidence base

As made clear in the National Planning Policy Framework 2012, the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. The Government is implementing legislative change through the Localism Act, including the introduction of a system of Neighbourhood Planning and the removal of top down targets, to improve and provide more certainty to the planning system at the local level. The Government has also set a guarantee that, from submission to decision, no planning application should take more than one year, including any time spent at appeal.

Background on the current appeals process

Applicants have a right to appeal to the Secretary of State against the refusal of planning permission or non-determination by local planning authorities. The vast majority of appeals, which are dealt with by an impartial body known as the Planning Inspectorate (PINS), are Section 78 planning appeals¹. Other appeals cover for example, enforcement (under Section 174 of the Act)² and advertisement consent.³

Appeals are determined by different procedures depending on the complexity of planning matters;

- Written Representations – Where any further evidence is provided through correspondence only. (The Householder Appeal Service is an expedited process for appeals concerning the development of an existing dwellinghouse or development within the curtilage of a dwellinghouse.)
- Hearing – Where it is necessary to ask questions.
- Inquiry – Where it is necessary to test evidence under cross-examination.

There are considerably fewer Section 174 enforcement appeals than section 78 appeals, but they are frequently more contentious. Advertisement consent appeals are also smaller in number, although they are often less complex so are predominately determined via written representations, with the rest as hearings.

¹ Section 78 planning appeals are those made under Section 78 of the Town and Country Planning Act 1990. Appeals can be made against the decision, non-determination, or the planning conditions imposed by the local planning authority.

² Enforcement appeals are those made under Section 174 of the Town and Country Planning Act 1990 against an enforcement notice issued by the Local Planning Authority. Grounds for appeal include that the development does not breach planning control, or that planning permission should be granted. <http://www.legislation.gov.uk/ukpga/1990/8/section/174>

³ Advertisement consent appeals are those made under The Town and Country Planning (Control of Advertisements) (England) Regulations regarding the placement of advertisements in respect of public amenity and health and safety. 2007 <http://www.legislation.gov.uk/uksi/2007/783/contents/made>

Problem under consideration

Of the 440,000 planning applications decided by local planning authorities in 2010-11, 14% (62,000) were refused permission for development⁴. In the same year around 16,500 section 78 appeals were made to the Planning Inspectorate – equivalent to 4% of all decisions or 27% of the applications refused⁵. One third of these appeals, or just over 1% of all planning applications, were allowed at appeal.

In 2011-12 the Planning Inspectorate exceeded their agreed performance measure of determining 80% of appeals within 26 weeks for section 78 appeals, but some took considerably longer, particularly in the case of inquiries. Enforcement appeals have different performance measures reflecting the complexities of these types of appeals, and which are often linked with another planning appeal.

The table below shows that the average length of time taken to determine appeals varies by procedure type (increasing with complexity of planning matters).

Table 1: Timeliness of appeal determination 2011-12⁶

	Number of appeals decided	Average length of time – weeks
Section 78		
Householder appeals	4,990	7
Written Representations	8,191	17
Hearing	1,054	21
Inquiry	281	31
Advertisement consent		
Written Representations	575	17
Hearing	74	22
Enforcement		
Written Representations	1,645	20
Hearing	385	25
Inquiry	584	33

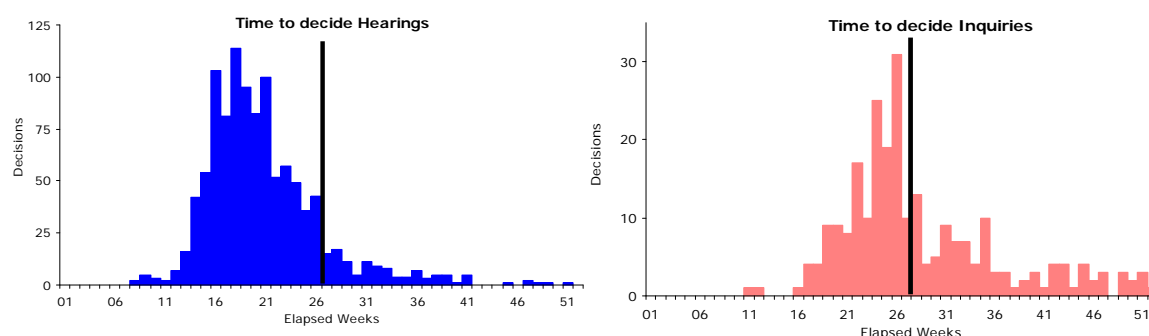
More detailed analysis of section 78 hearings and inquiries shows that although the vast majority of non-householder appeals are decided within 26 weeks of their start date, many appeals take noticeably longer, usually because they are adjourned. This is particularly the case in respect of hearings and inquiries, which often broadly relate to larger scale development. The 'long tail' of section 78 hearings and inquiries taking more than 26 weeks to determine is depicted below.

⁴ Department for Communities and Local Government, *Live Table P120*, <http://www.communities.gov.uk/documents/statistics/xls/2081096.xls>. Figures exclude applications that cannot be either granted or refused.

⁵ Planning Inspectorate, *Statistical Report: England 2010-11*, http://www.planningportal.gov.uk/uploads/pins/statistics_eng/10_11/stats_report_final_2010_2011.pdf

⁶ Planning Inspectorate, *Statistical Report: England 2011-12*, http://www.planningportal.gov.uk/uploads/pins/statistics_eng/stats_report_final_2011_2012.xls

Charts 1 and 2: time to decide section 78 Hearings and Inquiries, 2011-12



While some appeal cases are large and complex, we want to ensure that they are decided as promptly as possible. There are costs to an appellant in bringing an appeal, for example from time spent assembling relevant documentation or from providing legal representation. These costs vary by procedure and are usually greater for inquiries where, for example, legal advocates are often used and expert witnesses may be called. There are likewise costs for a local planning authority in defending an appeal, through planning officer and legal costs. Appellants also incur substantial costs from keeping development activities on hold whilst awaiting the outcome of planning appeals.

Extended appeals processes and added delays through adjournment, wastes time and adds to the costs of all parties. Delaying decisions imposes unnecessary costs on appellants and local planning authorities who expend considerable resources on the process itself and often have large amounts tied up in developments standing idle.

As it stands, the appeals system can be seen to add uncertainty to the development process for appellants and local planning authorities and local communities. The Government wants to ensure that agreed sustainable development can be taken forward as quickly as possible and is therefore seeking to improve the rules and procedures governing non-householder appeals⁷.

Rationale for intervention

The Government is responsible for determining the legislative framework within which the planning appeals system operates. The appeals process and the required timelines are set out in regulation, and explained in detail in PINS procedural guidance⁸. This provides detailed guidance to appellants and the local planning authority on the three procedures, including the key deadlines for the submission of evidence. It therefore falls to Government to take the lead in considering reforms that could potentially improve the efficiency of appeals processes. The distribution of

⁷ Appeals concerning householder developments are already dealt with efficiently following the introduction of the Householder Appeals Service Since in 2009,.

⁸ The Planning Inspectorate Procedural guidance: Planning appeals and called-in planning applications 01/2009
http://www.planningportal.gov.uk/uploads/pins/procedural_guidance_planning_appeals.pdf

time to appeal determinations suggests there is indeed scope to learn from those cases that are determined faster, to identify good practice that can benefit others.

Policy objective

The Autumn Statement of November 2011⁹ announced the Government would review planning appeal procedures, with a view to making the process faster and more transparent, improve consistency and increase certainty of decision timescales. As the majority of the larger and more complex development proposals which are important for economic growth, are determined by hearings or inquiries, the review focused on these procedures at first. Specific policy objectives are to:

- reduce the time taken to determine an appeal, thus cutting costs for PINS, local planning authorities, and developers, and enabling development to proceed (where the appeal is upheld);
- make the appeals process more efficient and collaborative, with clear early agreement on the grounds for appeal, thus saving local planning authorities and developers from wasted time and expense.

Behaviour change by all the parties to the appeal is key to the effective implementation of the proposals.

Overview of options under consideration.

A series of potential reforms to the appeals system have been identified, taking account of key messages received from representative bodies whose members frequently use the service. For ease of exposition these measures are grouped together according to whether their focus is on either:

- Making the appeals process faster and more transparent, or
- Improving the consistency and certainty of decisions.

❖ Key messages

- General consensus that appeals should be the tool of last resort.
- There was general satisfaction with appeals dealt with by written representations.
- There was agreement on the need to reduce unnecessary documentation in the process.
- There was support to look at the Statement of Common Ground (SoCG), and Statement of Case, and how they could be best used.

Options:

1. Do Nothing;

Process for each appeal procedure remains as is.

Timeliness of decision making does not change significantly from current levels (for simplicity we do not consider potential short term impacts of the introduction of the National Planning Policy Framework, integration of the Infrastructure Planning Commission or changes resulting from realisation of resource savings).

⁹ HM Treasury, *Autumn Statement 2011*
http://cdn.hm-treasury.gov.uk/autumn_statement.pdf

2. **Measures to make the process faster and more transparent;**
 - 2A: Securing earlier submission and notification of appeal statements
 - 2B: Agreeing 'Common Ground' upfront
 - 2C: Starting hearings and inquiries sooner
 - 2D: Introducing an expedited 'Commercial Appeals Service'
3. **Reforms to improve consistency and increase certainty of decision timescales;**
 - 3E: Aligning other planning-related appeal processes
 - 3F: Issuing one guide to planning appeal procedures
4. **Combined approach to make the process faster, more transparent and consistent**

The two sets of measures could be implemented independently, although at this stage we consider the greatest value lies in implementing both in their entirety.

The proposals refer to Section 78 appeals considered by written representations, hearings or inquiries, unless otherwise stated. The detail of each option is laid out below along with the costs and benefits.

Costs and benefits of each option

We make a number of modelling assumptions in order to estimate impacts over a 10 year appraisal period to a level of detail proportionate to the impacts:

- The proportion of planning applications going to appeal stays constant at 4% (based on 2010-11).
- The baseline route by which appeals are determined (written representation, hearing or inquiry) remains unchanged from 2011-12.
- The total number of planning applications decided rises over the appraisal period – from 447,000 in 2012 to 549,000 in 2021 – in line with the Office for Budget Responsibility forecast of economic growth¹⁰.
- The cost to different parties of participating in appeals is as shown by the table below. These estimates relate to administrative and legal expenses incurred during the appeals process¹¹. Wages are assumed to remain constant.

Table 2 Costs to parties of participating in an appeal

Cost per case	Written representation	Hearing	Inquiries
Planning Inspectorate	£1,000	£3,500	£11,500
Local planning authority	£800	£1,000	£3,200
Appellant	£2,000	£4,000	£10,500

¹⁰ HM Treasury, Budget 2012, http://cdn.hm-treasury.gov.uk/budget2012_annexd.pdf

¹¹ Impact assessment for the introduction of the NPPF
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1951736.pdf>

- The average wage rate for staff employed by the Planning Inspectorate is £21.44 per hour (up-rated from a basic wage of £16.50)¹². Wages are assumed to remain constant.
- Based on estimates provided by the Planning Inspectorate, 63% of appeals in respect of non-householder developments are assumed to be made by businesses or third sector organisations (although in practice some may be promoted by individuals).
- Applicants face financing and opportunity costs in holding onto land and other assets whilst appeals are being determined. On average, across all appeal types and development sizes, these are estimated in the order of £500 per week. This follows a methodology proposed by Professor Ball, University of Reading, for calculating the cost of purchasing the amount of land typically required for building residential or industrial premises – and financing this acquisition¹³.

Option 1 - Do nothing

There is no change to the existing process; therefore there are no additional costs or benefits.

Option 2 – Measures to make the appeals process faster and more transparent

Sub Option 2A: Securing earlier submission and notification of appeal statements

In submitting an appeal, each appellant is asked to provide information about the site, the proposed development, and the grounds for the appeal. Under the current system, appellants have up to a further six weeks after the appeal is submitted to provide additional representations (and evidence) to support the grounds on which they are basing their appeal. This is after they have had up to 6 months to prepare their case.

It is now proposed that all written statements regarding the grounds of appeal/statement of case for written representations, hearings and inquiries would in future be required to be submitted with the appeal. The outcome of this early disclosure would be that an appeal starts in earnest more quickly than it does now, as local planning authorities would have the benefit of the earlier sight of the appellant's statement before they respond. It also introduces an opportunity for

¹² Department for Communities and Local Government, *Planning Inspectorate Staff Data*, <http://www.communities.gov.uk/documents/corporate/xls/1751794.csv>. Excludes senior staff salaries. In line with HM Treasury Green Book guidance, *Appraisal and Evaluation in Central Government*, the marginal costs of employing staff are estimated by up-rating hourly wage rates to account for non-wage labour costs (e.g. National Insurance & pensions contributions).

¹³ National Housing and Planning Advisory Unit (2010), *Housing Supply and Planning Controls: the impact of planning control processing times on housing supply in England*, <http://www.communities.gov.uk/documents/507390/pdf/1436960.pdf>. Figures have been updated using latest available residential / industrial land price data from the Valuation Office Agency (July 2010) and reflect the current mix of appeal types and development sizes (Planning Inspectorate Statistical Report 2011-12 and latest DCLG Planning Statistics <http://www.communities.gov.uk/planningandbuilding/planningbuilding/planningstatistics/livetable/>).

interested parties to see the appellant's full case and provide comment on the points raised, rather than submitting comment as now at the same time.

Alongside this, local planning authorities will notify interested parties of the appeal, the timing for comments and the documentation that has been made available one week earlier than currently. They will also provide the completed questionnaire to PINS one week earlier than currently.

For hearings and inquiries, once comments have been gathered the appeal proceeds to an oral event. For written representation appeals, the process includes a further stage of written comments from appellants and the local planning authority. The time for appellants and local planning authorities to respond to any interested party comments submitted as part of this process would be shortened by one week.

Therefore overall this option could generate up to a 2 week time saving for written representation cases, and one week for hearings and inquiries. In addition it should reduce the average time taken to determine hearings and inquiries, by enabling an earlier focus on the key issues of the appeal, thus reducing nugatory work and submission of additional evidence later on, and quicker progress towards the event. Importantly it signals an important shift in behaviour change required of all parties, by legislating for a move to a more transparent and collaborative approach and reducing evidence submitted later in the process.

Impact on Appellants.

The proposal is neutral in cost, as it does not add to the workload of the appellant. They need to provide the same information, but do it at an earlier stage of the appeal process as a single submission. Appellants continue to have up to six months from the refusal of an application for planning permission to consider and prepare their case before lodging an appeal. Appellants may benefit personally or financially if a shorter appeals process allows them to commence (or exit) developments sooner.

Impact on Local Planning Authorities.

The proposal should reduce the general workload, as earlier sight of the appellants full case will enable the authority to focus on the key issues sooner saving staff time and reducing nugatory work later in the process.

Impact on Planning Inspectorate

There may be administrative costs to PINS/DCLG in updating the procedural rules. This task is expected to take several members of staff at grades HEO-Grade 6 level up to six weeks (full time equivalent) to complete, at a cost of up to £30,000. The earlier provision of more detailed information will help PINS to more accurately determine the procedure route. Once the revised procedures are in place, there is potential for a reduction in administrative costs as hearings and inquiries would receive a single submission from appellant when making their appeal.

Impact on Interested Parties/Communities

Unlike now, when all parties submit comment at the same time, interested parties and the wider local community will have the opportunity to see the full detail of the appellants case before they have to provide comment. This will enable them to strengthen their statement by being able to respond more fully to the points made and reduce the risk of them not being able to comment on evidence that might otherwise have been provided late in the process.

Sub option 2B: Agreeing 'Common Ground' upfront

Although inquiries formed only 3% of the total number of appeals in 2011-12, they usually involve significant and complex proposals and considerable time on the part of the inspector and the appeal parties. On average it currently takes 20 weeks from the receipt of an appeal to the start of an inquiry (2011-12). In terms of wider economic development, they are often for large scale developments.

Where an appeal is held via an inquiry, the appellant is required to submit a Statement of Common Ground – to identify matters agreed with the local planning authority which do not need to be considered at the event – 6 weeks after the start of the appeal.

Agreeing common ground can be time consuming for the parties involved and if begun late in the process, gives parties little time to respond to the others' points, which can result in a document of little use to the inquiry. Delays in providing evidence can lead to adjournments which add to the costs of all parties as well as causing delays. Currently 30% of inquiries are adjourned. Parties may seek an adjournment in order to obtain more evidence or to ensure experts are available. PINS plan Inspector resource some months in advance, and any adjournments can sometimes take a significant time to reconvene adding to costs and delays to development.

It is now proposed that the appellant be required to table a first draft of a document containing the factual background to the case at the time they make the appeal. The local planning authority would then have time to negotiate with the appellant a final version of the agreed matters which do not need to be considered at the event. The outcome of this would be to encourage local planning authorities to engage properly at an early stage of the process. If the local planning authority does not signal in their questionnaire (currently submitted in week 2 of the appeal) that they wish to respond then the appellant's facts would be taken as the 'unchallenged facts of the case'.

The outcome will be that the appeal can focus more quickly on the key areas of dispute, saving time and inspector resource. It may enable some reasons for refusal that can be dealt with by condition to be agreed. It is anticipated that this will lead to a reduction in event time, including sitting time for the Inspector and time other parties spend at inquiries. Altering the process and bringing forward the timing of the statement will add transparency to the process and the focus on common ground will signal a required behaviour shift away from the current adversarial approach.

Impact on Appellants

Moving the preparation of the Statement of Common Ground forward in the process should reduce costs overall, as securing earlier agreement will save time and reduce effort wasted in covering planning issues that are not key issues. It will help in making the process transparent and in reducing time at the event, including the cost of any advocates.

Impact on Local Planning Authorities

Planning authorities will be required to engage more effectively in the process, but overall the proposal should reduce costs through reducing nugatory work, and shorter time away from the office attending the event.

Planning Inspectorate

Reduces costs at the event by focusing in on the key grounds for appeal to be considered, saving the Planning Inspectorate Inspector time and reduced administrative and travel and subsistence costs where the number of days at the event is shortened. Reduced documentation would lead to a reduction in preparation and event time, releasing Inspector resource to undertake other casework. The revised agreement process should encourage behaviour change by the parties leading to a less adversarial approach to the event, as well as it being shorter and more focussed. Administrative costs to the Planning Inspectorate or DCLG from implementing this change are included in the potential costs for option 2A.

Interested parties / communities

Interested parties are able to request a copy of the Statement of Common Ground as now. Earlier sight of this may enable them to raise points when given an opportunity to make representations at the event.

Sub option 2C: Starting hearings and inquiries sooner

Secondary legislation sets out the length of time by which an appeal event can take place, although longer is allowed depending on the issues of the case and to ensure flexibility in Inspector resource allocation. The current rules suggest that event take place no later than 12 weeks from when an appeal is submitted for a hearing¹⁴, and 20 weeks for inquiries¹⁵. In practice because of the scheduling of Inspectors in the most effective way in 2011-12 only around 19% of hearings were held by week 12, although 80% of hearings were held by week 16 and 60% of inquiries by week 20.

We propose to reduce the expected time set out in the Procedural Rules to 10 and 16 weeks respectively and in doing so would signal to parties that they should prepare their case more quickly. This creates an opportunity to improve the timeliness of decision making, generally bringing it forward by 2 and 4 weeks respectively.

The rules would also be changed to emphasise the importance of accurately forecasting the number of witnesses and length of time needed to give evidence and to cross-examine, in order to better plan event timetabling and reduce the risk of adjournments.

Impact on Appellants

The proposal does not introduce any additional work, but rather that it requires it to be done earlier. The assumption is that it is cost neutral as appellants have a long period in which to decide to (and prepare for) appeal, and this will be verified at consultation. Earlier events will lead to earlier decision making meaning that appellants can benefit personally and financially from the development sooner if the appeal is upheld. This will require appellants to have their witnesses ready to appear earlier.

Impact on Local Planning Authorities

The proposal does not introduce any additional work, but rather that it requires it to be done earlier. We therefore expect it will be cost neutral and will seek to verify this at consultation.

¹⁴ Town and Country Planning (Hearings Procedure) (England) Rules 2000

¹⁵ Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

Impact on Planning Inspectorate

The earlier timetabling of events will place some additional pressure on PINS Inspector resource, at least during the transitional phase as timetables are adjusted. PINS estimate these transitional costs at up to £200,000. There may be some impact on operational flexibility in the deployment of Inspectors in order to meet the shorter deadlines which could add to travel and subsistence. However the proposal supports the principle that the parties should be ready to proceed with the appeal and to work to ensure it is progressed efficiently.

Impact on Interested parties / communities

Although there will be shorter timescales to prepare evidence for an event, parties will see the whole case and there is no change in the ability to present evidence, and therefore we do not consider there will be a cost to interested parties.

Sub Option 2D: Introducing an expedited 'Commercial Appeals Service'

The introduction of a Householder Appeals Service in 2009 has been successful in reducing the time taken in determining less complex householder appeals. This expedited process accounted for 34% of the total Section 78 caseload in 2011-12, with 91% of such appeals determined within 8 weeks, compared with the average for other written representations of 17 weeks. It offers a faster service by relying heavily on evidence submitted at the application stage, thus reducing the opportunity to provide further evidence at additional points in the appeal process. PINS retain the power to determine that individual appeals are best dealt with via other procedures.

There is scope to explore the formation of a Commercial Appeals Service to mirror the arrangements for householder appeals and offer a similar streamlined process for some straight forward, smaller scale commercial applications. For example applying an expedited procedure to all advertisement consent written representations cases could lead to a significant reduction in the amount of time taken to determine the appeal. In 2011-12 the 575 advertisement consent appeals determined via written representations took between 7 and 43 weeks, with an average time of 18 weeks. If decisions in the simplest 50% of advertising consent appeals – those decided quickest at present – were brought forward to 8 weeks then the average time saving per advertising appeal would be more than 4 weeks. This is equivalent to a 37% reduction in time taken to determine this half of advertising appeals. The scope of appeals to be determined through any future expedited appeal route would need to be clearly defined and readily identifiable to the appellant.

Impact on Appellants

The appellant would need to ensure that they submitted their full grounds for appeal and rely on the information provided in support of the application for planning permission at the appeal. Assuming that costs of undertaking one-half of advertising appeals will fall proportionately in line with timescales, as a result of retaining staff for less time and eliminating the need to provide further evidence at later stage in the process, then appellants could save £2m over the appraisal period (average of £730 per appeal). Earlier decision making means that appellants can benefit from the advertisement sooner financially if the appeal is upheld (27% of cases in 2011-12), potentially enabling them to realise an additional £860,000 in advertising revenue by

bringing sites to market earlier¹⁶. Total benefits are therefore estimated at £2.9m. Benefits are expected to accrue to businesses in their entirety.

Impact on Local Planning Authority

The LPA will be required to provide copies of all the material contained in the case file during the consideration of the application, along with any questionnaire where required, within the specified time. Assuming that costs will be reduced in line with the decrease in appeal duration, for example because of requiring less planning officer time to provide information at other stages in the process, local planning authorities could realise savings of £800,000 over the appraisal period in respect of advertising consent appeals (average £290 per case).

Impact on Planning Inspectorate

Depending on the type of appeal in scope, PINS costs may be less as a result of the reduced number of stages of the process, thereby shortening the Inspector time devoted to determining advertising written representations. We estimate these potential savings at £360,000 (£130 per case), assuming costs fall in proportion to appeal times. However, this source of benefit is likely to be partially offset by costs to the Planning Inspectorate from instituting a Commercial Appeals system and ensuring staff are familiar with the new arrangements. These one-off transitional costs are estimated in the order of £50,000 (assuming 700 staff across the organisation receives half a day training). Net benefits to the Planning Inspectorate could therefore amount to £310,000.

Impact on interested parties/communities

Under the current expedited householder appeal process, further comment is not invited from interested parties. This is made clear at the time of the application for planning permission. Consideration would be given to the role of interested parties in any appeals that fall within scope of a new commercial appeals service.

Summary of costs and benefits for Option 2.

The respective proposals should have a significant impact on the timeliness of section 78 appeals determined via written representations, hearings, and inquiries. The outcome would be the opportunity, in general, for some decisions to be issued between 1 and 4 weeks earlier than at present which would in turn, where the appeal is upheld, lead to sustainable economic development to meet the development needs of the local area.

At this stage it has not been possible to separately estimate the impact that measures A-C will have on timeliness of the appeals process. Modelling undertaken by the Planning Inspectorate indicates that the combined effect of these options is for decision times across all section 78 appeals to be brought forward by 5 days on average (equivalent to a 5% reduction). The benefit would be much greater for those appeals that currently take longest – particularly for Inquiries, which would see times reduced by over 30 days (24%) on average – see charts 3 and 4.

¹⁶ The price of outdoor advertising is highly dependent on the number of ‘contacts’ that can be generated and on other factors relating to impact, ranging from around £100 per week for simple posters to several thousands of pounds for the best sites. We conservatively assume advertising appeals relate to proposals that could generate revenues of £250 per week. Price is particularly affected by location, media format, e.g. billboard or street furniture, pitch size and other physical factors (e.g. lighting, movement).

Chart 3: Time elapsed from appeal submission to inquiry, 2011-12

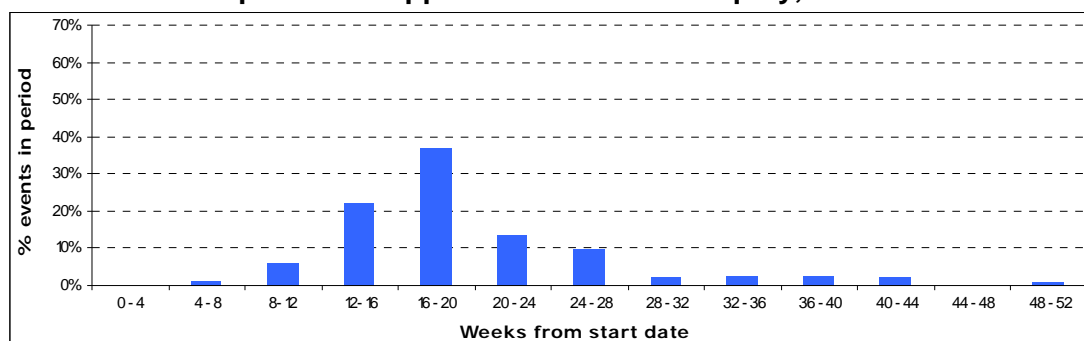
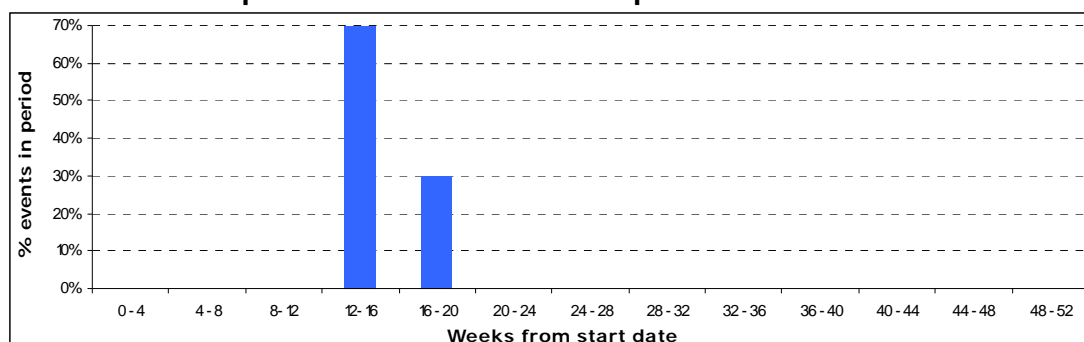


Chart 4: Revised profile to deliver 100% of inquiries within 26 weeks.



Improving the timeliness of decisions would benefit appellants. Cutting the amount of resources required to undertake planning appeals proportionately with the time taken to determine appeals could save appellants £16.3m. On top of this, enabling developers whose appeals are upheld¹⁷ to commence work sooner could bring benefits of £20m over the appraisal period.

Having familiarised themselves with the changes, the benefits to local planning authorities from avoiding nugatory work and reducing the amount of time spent on appeals by planning officers could amount to £6m over the appraisal period, assuming expenditure declines in line with time to decision.

The Planning Inspectorate may incur transitional costs of up to £200,000 as they move to tighter deadlines for events. There may be some impact on operational flexibility in the deployment of Inspectors, but the Inspectorate should benefit overall from lower costs through needing less Inspector time at the hearing or inquiry. The proposed simplified process for some commercial appeals also presents opportunities for further savings.

The total quantified benefits of option 2 are therefore:

Party	Present value of benefits
Appellants	£39.2m
Local planning authorities	£6.8m
Planning Inspectorate	£360,000

Taken together, the package of proposals will bring added benefits beyond those of the individual measures. Through tightening timescales at key points in the process,

¹⁷ 32% of written representations, 43% of hearings and 55% of inquiries in 2011-12.

the changes signal a wider message about behaviour change and the need for a speedier and collaborative process.

The impact on interested parties is assumed to be cost neutral, as no additional work is involved. They do however, gain from being able to see the appellants Statement of Case when presenting their representations at week 6 under option 2A.

Option 3 – Reforms to improve the consistency and increase certainty of decision timescales

As important for developers and local planning authorities to have a faster and more transparent process, is the ability to manage their time and resources effectively through a process that has certainty on the key milestones. To aid this objective and to support PINS process of continuous improvement, a number of proposals have been developed.

Sub option 3E: Aligning other planning-related appeal processes

The procedures for Section 78 planning appeals – written representations, hearings and inquiries - have been variously amended over a period of time. Subject to consultation, the rules for s78 planning appeals procedures will be updated to reflect the agreed proposals and the opportunity taken to consolidate the varying sets of rules. A consolidated set of section 78 procedures should generate some time savings as rather than cross referencing 2 or 3 process documents as at present, per case, only one would be needed in the future.

Alongside this, there is opportunity to consider extending the streamlining of S78 processes undertaken in 2009 to other appeal procedures for enforcement, adverts and listed building consents. These changes would simplify the process and generate savings for appellants and local planning authorities. Two particular changes are proposed for consideration:

- Removal of the existing 9 week comments stage for enforcement hearings and inquiries to align these procedures with Section 78 appeals. There were 385 such appeals decided via hearings and 584 decided by inquiries in 2011-12,. Therefore the change could bring significant time savings and reduced costs from not having to produce further information.
- Fully commence the determination powers for advertisement consent and listed building appeals, allowing the Planning Inspectorate to establish the most appropriate procedure by which to determine these appeals. This should have the effect of ensuring that the most time and cost effective procedure is followed while the fair right to appeal is maintained. The change would also enable PINS to choose the most appropriate procedure where a listed building appeal is linked with a Section 78 planning appeal.

Impact on Appellants.

A consolidated set of section 78 procedures should generate some time savings, as they will need to reference only one document, rather than cross referencing 2 or 3 process documents per case as at present. Increasing the similarities in procedure between other appeal types (enforcement, advertisement consent) should also save familiarisation time. The removal of the 9 week stage will shorten the process and save time and therefore costs, without the loss of opportunity to make their case. PINS having the power to determine the appeal process could result in savings with case following a less complex and more appropriate procedure.

Impact on Local Planning Authority

A consolidated set of section 78 procedures should generate some time savings, as local planning authorities will need to reference and familiarise themselves with only one document, rather than cross referencing 2 or 3 process documents per case as at present. Increasing the similarities in procedure between other appeal types (enforcement, advertisement consent) should also save familiarisation time. The

removal of the 9 week stage will shorten the process and save time and therefore costs, without the loss opportunity to present their evidence. PINS having the power to determine the appeal process could result in savings through following a less complex procedure.

Impact on Planning Inspectorate

There is likely to be a small cost to PINS and DCLG to take forward the analysis, revision and introduction of the necessary secondary legislation. However once in place, the simplified set of procedures will make the process clearer, thus reducing the opportunity for error and resulting costs. Providing PINS with the power to determine the appeal process should lead to a reduction in the number of cases held via hearings and inquiries, and bring savings from a reduction in Inspector resource.

Impact on Interested parties / communities

The consolidated set of guidance should make the process clearer to interested parties who may not be familiar with the planning system, enabling them to engage more fully with the process. The criteria by which PINS determine the appeal procedure will continue to include consideration of the wider public interest.

Sub option 3F: Issuing one guide to planning appeal procedures

Appellants and local planning authorities currently draw on a significant suite of documents for information about the appeal process, amounting to around 300 pages. This includes the existing PINS Procedural Guidance, as well as 17 Good Practice Advice notes. Parties to the appeal at present would draw on 3 or more separate documents. For first time appellants the existing guidance can be complex as well as long, and therefore time consuming.

It is proposed that a single streamlined, clear procedural note be produced, totalling some 30-40 pages. This would be a one stop shop for planning, enforcement and advertisement consent appeals, setting out Government procedural guidance on appeals and setting expectations for appeal party documentation and evidence, and grounds for an award of costs. The guidance would make explicit the expectations that all parties should operate in an open and transparent manner, and adhere to the timetables. It will also spell out the scope to seek an award of costs where a party has failed to behave reasonably.

Impact on Appellants.

Consolidating information on the appeals process in one place and reducing the volume of guidance should be of considerable benefit to appellants. Being able to consult one short document for information about appeals procedures, rather than locate and read several longer publications, is likely to save time in the case of most, if not all, appeals. It has not been possible to quantify or monetise this benefit as there is insufficient evidence available on how appellants currently interact with guidance materials (e.g. the length of time spent searching for and digesting information).

Making guidance clearer and more accessible could also benefit appellants by reducing the need for them to employ professional planning consultants and legal advisors to assist in understanding what they need to do, how and when. For this reason the policy could bring direct financial benefits. These are not quantified as there is little evidence on the scale of appellants' expenditure on external advisors. More broadly the behaviour change explicit in the guidance should bring benefits through reduced time at event and more equitable appeal outcomes.

Impact on Local Planning Authority

It is also likely that there would be a time saving for local planning authorities from having one single source of streamlined information, rather than having to read and cross reference several documents, and a reduction in the amount of legal expertise required on particular appeals. More broadly the behaviour change explicit in the guidance, should bring benefits through reduced time at event.

Impact on Planning Inspectorate

There may be a specific cost to PINS /DCLG in undertaking a major review of guidance, and producing a single, clear document. This will build on the earlier work in support of option 2, and add further staff costs for HEO to Grade 6 of circa £30,000 to complete the draft. However there will be less documentation to maintain in the future.

Interested parties / communities

There should be time savings from having to access only one single source of streamlined information, and further benefit from that document itself being clearer and more easily understood by those not familiar with the planning system, enabling them to engage more fully in the appeal.

Summary of costs and benefits for Option 3

Although the suite of proposals are focused on making the process better; improving the consistency of the process and the certainty of decision timescales, the proposals should also bring about a more transparent process, and behaviour change by all parties.

Local planning authorities will need to familiarise themselves with the changes, but the proposals are expected to bring financial benefits by reducing costs to all parties by having a single clear document, and time at the event by having followed the guidance about providing evidence by the deadline. This assumption will be tested during the consultation.

Option 4 – combined approach

Although individual proposals could be taken forward independently, we consider that taking forward both options together should generate the greatest financial and other benefits in terms of time saved, and therefore best meet the policy objective. The decision could be brought forward by more than 2 weeks for appeals determined by written representations, and by at least an additional 2 and 4 weeks for hearings and inquiries respectively. Aligning and simplifying the procedural guidance at the same time as legislative changes in options 2 and 3 would bring cumulative benefits to parties in terms of clarity and transparency.

More broadly, implementing both options would reinforce the essential behavioural change that would underpin the more collaborative and transparent appeals process in the future. The impact assessment has not sought to quantify any direct costs and benefits over those identified separately for options 2 and 3, but we consider that there is scope for cumulative benefits to accrue over and above this. The responses to the consultation should help in this modelling.

Summary of costs and benefits

Appellant

The package of proposals should not lead to additional work but some documentation may be produced earlier in the process. Cumulatively, overall the proposals should generate savings from reducing work, and a reduction in the likelihood of adjournments. The developer, usually businesses in the case of hearings and inquiries, should gain personally and/or financially from the development sooner, if the appeal is upheld, or from earlier exit from ongoing costs if the appeal is dismissed. All appellants would benefit from having shorter timescales for decision making. Developers should be able to re-invest profit from completed development, or more quickly release funding tied up. There should be further un-quantified savings from the general shift in behaviour change and reduced set of rules. We estimate savings in total of £39.2m.

Local planning authorities

The proposals should not lead to any additional work. Cumulatively, there should be some savings from eliminating nugatory work, and the forecast reduction in adjournments. Furthermore, there should be some additional un-quantified savings from the change in behaviour of all parties during the process and from having a reduced set of rules. Savings to local planning authorities of £6.8m are forecast.

Planning Inspectorate

There would be some development and implementation costs, for example to undertake the review and re-drafting of single procedure guidance. There would be further administrative costs to PINS and DCLG to take forward the secondary legislation changes needed to amend advertisement consent/enforcement appeals, and to consolidate S78 appeals.

Some of the proposals may have an impact on Inspector resource, both in terms of how work is planned and in time spent in the determination of an appeal. This could result in short term transitional costs of around £280,000.

Offsetting this impact in the longer term should be savings accrued from the reduction in unnecessary work, sitting time, and adjournments both in administrative and Inspector resource. Once in place, the simplified single set of procedures would make the process clearer and faster, thus reducing costs. Shorter event times could

lead to reduced staffing and administrative costs to the Planning Inspectorate. Overall savings of £330,000 are forecast, giving a net benefit to the planning inspectorate of £70,000. Further work would be done to model the detailed impact on funding following the consultation.

Interested parties/communities

The package of proposals should lead to reduced costs for interested parties through providing more certainty on event dates, reduction in adjournments and full appeal statements upon which to comment.

Risks and assumptions

The key risk is that the package of proposals do not bring about the required behavioural change, with new evidence still raised later in the process or at the event meaning that the process is not shortened.

The wider reforms to the planning system may impact on the broader work of local planning authorities and the Planning Inspectorate, and therefore on the assessments within this IA.

Direct costs/benefits to business

One in One Out

It is expected that the proposals would result in some changes to existing regulation, thereby reducing regulatory burdens on business overall. The monetary value of these benefits to business is estimated at £25.8m (NPV), giving an equivalent annual net cost to business of £-2.77m (EANCB, 2009 prices). Further details underpinning this figure are provided in the text above. It should be noted that not all sources of benefit to appellants have been monetised at this stage, for example from aligning other planning-related appeals processes. The package of proposals therefore constitutes an 'out'.

Moratorium on regulation on micro-business

The preferred package of deregulatory proposals will fall in scope of the moratorium on regulation on micro-business. Details of whether appellants are private or third sector organisations (and the number of staff they employ) are not recorded as part of the appeal process. For example, appeals can be submitted by an agent acting on behalf of a larger national company. It is therefore difficult to estimate the likely impact on micro-businesses precisely. The Planning Inspectorate estimate that 63% of appeals are business led, of which 25% of businesses may qualify as 'micro'-businesses based on BIS national estimates. Based on PINS volume figures for 2011-12 this would suggest in the region of 2,300 appeals could be submitted by micro-businesses p.a. On this basis we cautiously estimate that benefits to micro-businesses could amount to £6.4m.

The proposals will change and consolidate existing regulation, but overall will reduce it. Implementation of the proposals should bring financial and other benefits to all appellants, including micro-businesses. Furthermore, the proposals should lead to the possibility of speedier development in support of wider economic growth. An exemption will therefore be sought from the RRC and Economic Affairs Committee for the implementation of a final set of proposals.

Wider Impacts

Equalities - The proposals will predominately impact on hearings and inquiries, which usually involve more significant development proposals from business. It is not anticipated that the changes will impact disproportionately on any of the protected groups. An initial Equalities screening has not indicated that a full assessment will be required.

Environmental - No impacts identified. These proposals make no change to the policy expectations or legal duties of local planning authorities or appellants in safeguarding or improving environmental assets as required.

Justice Impact Test - An initial assessment of the proposals indicates that there will be no impact on the courts and tribunals service. The completed JIT is being shared with the Ministry of Justice.

Question: Do you have any comments or additional evidence on the costs and benefits of the proposals?

Summary and preferred option

The policy objective as outlined in the Autumn Statement 2011 is to make the appeals process faster, more transparent and consistent, and consistently applied. The preferred option (4) to introduce the combined package of proposals best meets these objectives, and in turn would lead to speedier development in support of wider economic growth.

The changes should bring benefits to both appellants and local planning authorities by shortening the time taken to determine the appeal, thus saving staff costs and enabling appellants to release funding tied up in developments. Additional financial savings should accrue from eliminating wasted effort, from the early sharing of information and reduction of documentation, and agreement on and narrowing of the issues for consideration at appeal. Savings to appellants are forecast as £39.2m, and for local planning authorities of £6.8m. The proposals will be cost neutral to interested parties, but they do gain the benefit of being able to see the appellant's full case before providing their statement.

There should similarly be financial savings and operational efficiencies arising for the Planning Inspectorate. There could be some transitional costs for the Planning Inspectorate in the short term in adjusting to the new quicker performance timescales. Extending the power to determine appeal procedure to more types of appeal, the introduction of a simplified Commercial Appeals Service, and a clearer and simplified set of guidance should all serve to reduce costs overall. An initial estimate indicates net savings of £70,000 but further detailed work would follow the consultation.

Subject to consultation and securing all the necessary Government agreements, the changes would be implemented from April 2013. Once implemented, PINS statistical returns will be monitored to review the impact on the average time taken to determine appeals and customer feedback surveys used to provide soft intelligence on the views of local planning authorities and appellants.