



Llywodraeth Cymru
Welsh Government

www.gov.wales

Appeals under Schedule 14 to the Wildlife and Countryside Act 1981

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Schedule 14 Appeal Guidance

Introduction

The information contained in this guidance is applicable only within Wales.

Appeals may be made to the Welsh Ministers under paragraph 4(1) of Schedule 14 to the Wildlife and Countryside Act 1981.

Acting on behalf of the Welsh Ministers, the role of the Planning Inspector is to decide whether there is a case for making an order. If there is, they will direct the local authority accordingly. They will make a decision based on the evidence submitted with the appeal.

Right of appeal

Anyone who has made an unsuccessful application to a local authority for an order to modify the area's definitive map and statement can appeal the decision. The application could have been to include or amend a right of way.

The right of appeal does not exist if:

- the authority issues a refusal notice to make an order for the status applied for, but resolves to make an order for a different status,
- the authority makes an order which differs from the application in some other way,
- the application is deemed to be invalid by the authority,¹
- the authority refuses to consider an application when it is not made on the prescribed form. If an application has not been made in the prescribed form (in accordance with paragraph 1 of Schedule 14 of the 1981 Act) the authority may use its discretion and determine that application, waiving the breaching of the requirements of paragraph 1.

The right of appeal against the authority's determination is only valid if that determination is not to make an order at all.

Making an appeal

Appeals **must** be made in writing within 28 days of the decision letter from the authority refusing to make the order.

A valid appeal can be in the form of a letter or a completed Appeal Form, plus relevant documentation. The local authority will be asked to respond to the appeal and submit a statement of case. The appellant will be given the final right of reply to the authority's statement of case.

¹ Schedule 14(1) of the Wildlife and Countryside Act 1981 sets out the form and notice for applications. Schedule 7 of The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 SI 1993 No.12 also refers.

It is important that the grounds of appeal are clearly set out. If grounds are not submitted, the authority will be unable to respond and the Inspector will be unable to consider the appeal.

Requests for appeal forms and submitted appeals must be addressed to:
The Rights of Way Team
The Planning Inspectorate
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

There was a change in Welsh Government policy on 9 March 2015. Evidence to be considered by the Inspector should not be limited to that which was previously considered by the local authority in refusing the original application. Evidence, not previously considered by the local authority may therefore be submitted with an appeal.

The Inspector will consider any relevant evidence submitted from interested third parties, along with any subsequent comments made by the appellant and/or the local authority on that evidence.

There is no statutory provision for determining Schedule 14 Appeals. The majority of appeal cases are determined without a site visit. A site visit will only be made on the request of the Inspector.

A more formal oral procedure may be adopted if the Inspector considers:

- it is necessary to ensure procedural fairness, or
- the conflict of evidence cannot be fairly resolved on consideration of the written representations and papers alone.

In these circumstances the local authority will be asked to provide a suitable venue for the holding of that oral procedure – be it an inquiry or a hearing.

Stages of an appeal

1. Notice of appeal served on Welsh Ministers **and** the local authority within 28 days of authority issuing a decision. Appellant submits grounds of appeal and relevant documentation to the Planning Inspectorate.
2. Appeal documents copied to the local authority.
3. Local authority is requested to submit a statement of case and asked to notify interested parties of the appeal.
4. A copy of the local authority's statement of case is sent to the appellant for comments.

5. Appellant's comments copied to the local authority for comments.
6. Any interested party correspondence sent to the appellant and local authority for comments.
7. Any comments received from the appellant and/or local authority copies between the parties, including interested parties, for final comments.
8. All final comments cross-copied between the appellant, local authority and any interested parties for information only.
9. An Inspector, appointed by the Welsh Ministers determines the appeal.

Where the local authority is directed to make an order, there is no time limit for completing the order.