

# The Planning Series: 5 - Call-in of planning applications

October 2019



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# **The Planning Series:** 5 - Call-in of planning applications

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**Paper Overview:**

This briefing provides an overview of the process for calling in planning applications. It describes the circumstances under which the Welsh Government will consider calling in an application and what happens when applications are called in.



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## 1. What is a call-in?

Applications for planning permission are generally considered by the Local Planning Authority (LPA). The LPAs are the 22 Unitary Authorities and the three National Park Authorities.

However, the Welsh Government has the power to assume responsibility from the LPA on any planning application using its powers under Section 77 of the *Town and Country Planning Act 1990*. The Welsh Government then decides whether or not planning permission is to be granted. This is the 'call-in' process, which only affects a small number of applications a year.

Any application can be called-in, as long as it has not yet been determined by the LPA.

## 2. Why are applications called-in?

The Welsh Government's national planning policy, **Planning Policy Wales**, says that:

1.32 Development proposals are generally best determined locally by LPAs which know their area, its needs and sensitivities. The Welsh Ministers do not interfere with LPAs' jurisdiction unless it is necessary to do so.

Planning applications are normally subject to call-in when planning issues of more than local importance have been raised. These issues may arise where the proposed development:

- Is in conflict with national planning policies;
- Could have wide effects beyond its immediate locality;
- May give rise to substantial controversy beyond the immediate locality;
- Is likely to significantly affect sites of scientific, nature conservation or historic interest or areas of landscape importance;
- Raises issues of national security; or
- Raises novel planning issues.

The applicant or any other interested party (known as a third party) can write to the Welsh Government to request that an application be called-in. This must be done before the LPA makes its final decision. However, the Minister's decision as to whether to call-in an application is discretionary.

Various 'Notification Directions' also require LPAs to refer to the Welsh Government all applications which they intend to approve and where the development is a:

- Flood risk area development;
- Significant residential development (i.e. more than 150 units, or on more than six hectares of land, not in accordance with the provisions of the development plan in force in the area);
- Minerals development (for the winning and working of minerals on new sites or extensions to existing sites, not in accordance with the provisions of the development plan in force in the area);
- Waste development (intended for the deposit of waste into or on to land, not in accordance with the provisions of the development plan in force in the area);
- Aggregates extraction from a new or existing site within a National Park or an Area of Outstanding Natural Beauty;
- Unconventional oil and gas development, including appraisal or production of coal bed methane, shale oil or gas using unconventional extraction, including hydraulic fracturing (fracking); or
- Underground coal gasification.

Based on annual averages for the period 2012 to 2018, the Welsh Government received 41 call-in requests per year, with a further five applications per year notified under the various Notification Directions outlined above. From this annual total of 47, only an average of three applications were actually called in each year.

### 3. What happens when applications are called-in?

The **Planning Inspectorate**, an independent executive agency of the Welsh Government, appoints a Planning Inspector to handle the called-in application.

Previously, called-in applications followed the public local inquiry procedure. This is because they are generally for proposals of more than local importance which tend to generate high levels of public interest and require technical evidence to be tested by way of cross-examination.



However, the written representations procedure is now the default procedure. This change was introduced by the *Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017*, with the aim of speeding up decisions and reducing unnecessary costs.

The Inspector can still call topic-specific hearing or inquiry sessions should they deem them necessary. Proceedings of the hearing or inquiry are open to the public. Members of the public, at the discretion of the Inspector, may take part.

The three procedures - written representations, hearing or inquiry - are the same procedures that are used to determine planning appeals (see our separate briefing on planning appeals for more detail).

The Inspector then reports to the Welsh Government with the findings and recommendations arising from the written procedure, hearing or inquiry. These are considered by the Minister, who decides if the application is to be approved.

There is no right of appeal against the Minister's decision. However, an individual can apply for judicial review of the legal or procedural aspects of the decision only.

## 4. Key sources

### Welsh Government

The **planning section** of the Welsh Government's website provides information, including:

- **Planning Policy Wales (Edition 10, December 2018);**
- An explanatory guide for the public: **Called-in planning applications: guidance;**
- Planning appeals guidance: **Called-in applications;**
- Planning appeals guidance: **Procedural guide - Wales;**
- The Welsh Government Circular (WGC) explaining the categories of planning application which must be referred to the Welsh Government: **WGC 07/2012: The Town and Country Planning (Notification) (Wales) Direction 2012** (PDF 224KB);
- WGC explaining appeals and call-in procedures: **NAFWC 07/2003 Planning (and analogous) appeals and call-in procedures.**

## Planning Aid Wales

**Planning Aid Wales** is a charity helping eligible individuals and communities to participate more effectively in the planning system. It provides advisory services, including a helpline.

## Planning Portal

The **Planning Portal** is the UK Government's planning and building regulations resource. It includes information on the planning system in Wales, although some of the content only applies to England.

## Senedd Research

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