

Planning and Environmental Appeals (DPEA)

APPEAL TO SCOTTISH MINISTERS:
NOTES FOR APPELLANTS SUBMITTING A
CERTIFICATE OF APPROPRIATE ALTERNATIVE
DEVELOPMENT APPEAL (FORM AAC)



Scottish Government
Riaghaltas na h-Alba
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Notes for appellant

These notes relate to appeals to the Scottish Ministers under Section 26 of the [Land Compensation \(Scotland\) Act 1963](#) [the “Act”] and the [Land Compensation \(Scotland\) Development Order 1975](#) [the “Order”] in respect of decisions made by planning authorities on applications for certificates of appropriate alternative development, or in respect of the non-determination of such applications.

If you want to appeal against (a) the certificate of appropriate alternative development issued by the planning authority, or (b) the planning authority’s failure to give a decision on your application for such a certificate, you can use form AAC. You do not have to use the form to make your appeal as making it in writing will suffice, but completing the form does act as a guide to what is required.

Who can appeal

Both the person with an interest in the land being acquired (normally the owner) and the authority with compulsory purchase powers intending to acquire the land (the “acquiring authority”) may appeal an issued certificate.

Note: the planning authority and the acquiring authority are in many instances one and the same entities.

Deadline for making an appeal

If a certificate has been issued, the appeal must be made within 1 month of receipt of the certificate.

If the planning authority has not issued a certificate and the date by which it should have done so has passed, the 1-month appeal period starts from the date by which the authority should have made its decision. Planning authorities should normally make a decision within 2 months of receipt of the application but this period can be extended by agreement between the parties involved. Check with the planning authority if you are unsure of this date.

For example:

- (1) The planning authority's decision notice/certificate is received on 1 September – your appeal must be received by DPEA on or before 30 September (note: 1 October would be the start of the second month, and so too late).
- (2) The planning authority has not made a decision on your application, and it should have done so by 15 March. You can make an appeal against deemed refusal, but the last day by which you can do so is 14 April. However, if you do not make an appeal against deemed refusal and wait for the planning authority's decision on the application, and you subsequently want to make an appeal against that decision, the 1-month clock will start again from the date the decision notice/certificate is received.

It is important that you give us notice of your appeal by these deadlines. However you do not need to provide all the documentation itemised on the form at the time of giving the notice of appeal. In such instances we will advise you of the deadline for submitting missing documentation.

Completing the appeal form

The notes below are intended to help you complete the appeal form. This form is mandatory and should be carefully completed to ensure your appeal is valid.

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Appellant(s)

This section should be fully completed with the name, address and contact details of the person or persons making the appeal.

Agent

This section needs to be completed if the appeal is being submitted by an agent acting on behalf of the appellant (e.g. planning consultant, solicitor, architect, friend).

You must also confirm whether correspondence should be sent to the agent rather than the appellant by using the check box provided.

Do you agree to all correspondence being sent by E-mail

We seek to use electronic communications wherever possible. Please mark the appropriate Yes/No box to confirm whether you are content to receive correspondence by e-mail.

Land acquisition party details

As either of the parties to the land acquisition may appeal against an issued certificate you need to indicate which party you are and supply the contact details of the other party.

Address of land & OS map grid reference or post code

To help us identify the location of the land which is being acquired and is the subject of your appeal, you should provide its postal address or site name and either the ordnance survey national grid reference or the site's post code.

Planning authority

This will be the name of the council who considered your application.

Application reference number

Each application for a certificate of appropriate alternative development is given a unique reference number by the planning authority. This will feature on correspondence from the authority and on the decision notice/certificate.

Alternative uses proposed in the application

Give the alternative use(s) proposed in the application for a certificate. Do not give details of other use(s) the planning authority say they may have granted permission for on the certificate, if such has been issued.

Date of application

This is the date on which the planning authority received the application (or any outstanding information) and so validated it.

Date of authority's decision

Where the planning authority has made a decision on your application, you should provide the date stated on the decision notice/certificate.

Who made application

Provides clarification as the applicant and the appellant may not necessarily be the same party.

Appeal against

There are 2 options in this section and you should select one of them, to demonstrate what decision or action of the planning authority you wish to appeal against.

- If a decision/certificate has been issued by the planning authority which you want to challenge, you should mark the first box.
- If a decision/certificate has not been issued by the planning authority within the timescale expected, and you wish to exercise your right of appeal rather than wait for the authority to make its decision, you should mark the second box.

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Statement of appeal

You must submit a full statement setting out all matters you consider require to be taken into account in determining your appeal. If you are unable to provide a full statement at time of submission of the appeal, you must provide it within one month of doing so.

If a certificate has been issued and you are not providing a full statement at this time, it would be helpful if you could indicate which aspect(s) of the certificate your appeal will be against.

Appeal procedure

The Scottish Ministers will appoint a person to consider and report on your appeal. They will then issue a decision based on that report.

In most instances the consideration of submissions made by the parties to the appeal and inspection of the land subject to appeal by the appointed person will be sufficient for them to reach their conclusions. If you are happy for this to be the case in this appeal you should select the first option.

However both the acquiring authority and the person with an interest in the land (in most instances the owner) have a right to appear before, and be heard by, the appointed person. If you wish to exercise this right you should select the second or third options, however we would suggest that in most such instances the second option, the holding of a hearing, would be the most appropriate choice.

To help you in deciding which options to choose please see the further information below on what each entails:

- Submission by parties and Inspection of the Site - The appointed person visits the site to view it and its surroundings. The appointed person will undertake an unaccompanied visit wherever possible. If an accompanied site inspection is necessary, there will be no scope to discuss the merits of the proposed development with the appointed person.
- Hearing - This involves a discussion between the parties. This will be restricted to the specific matters identified for discussion, and will be led by the appointed person. Formal cross examination of hearing participants is not allowed.
- Public Inquiry - This is a more formal procedure where cross-examination of witnesses is likely to occur.

Inspection of the Site

This section of the form seeks your assistance and opinion in relation to the accessibility of the site of your proposed development, to assist our preparations if the appointed person decides to inspect the site before reaching a decision.

Bio-security

Good bio-security practice helps prevent outbreaks and the spread of animal and plant pests which may affect agriculture, forestry, aquaculture and angling industries. It is helpful for the reporter to know in advance if there are any such issues they need to be aware of before they carry out a site inspection. If there are, please give details in the comments box on the appeal form or provide on a separate sheet.

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Other appeals

If you are aware any other planning (or related) appeals currently with the Scottish Ministers concerning the same or neighbouring land, please provide the details on this part of the form.

Supporting documents

You should indicate which items of the required documentation are being submitted with the appeal form.

Declaration

To confirm that you are making an appeal to the Scottish Ministers in the manner set out on your form and supporting documents, please sign and date the form before you send it. If you are sending the form electronically, you can simply type your name and date – your e-mail address will act as an electronic signature.

What next?

Once you are happy with the terms of your appeal, you should send the form and all supporting information to Planning and Environmental Appeals (DPEA), either by e-mail or by post. The contact details are at the end of the form.

The Order also requires that, at the same time as sending the notice of appeal to ourselves, you must send copies to the other party involved in the land acquisition and the planning authority.

When we receive your notice of appeal we will confirm its receipt and advise on other matters as appropriate. We will also contact the other parties and, amongst other things, will ask them to confirm they have received the notice of appeal.

Further information

For further information about the planning appeals process, please see the [Scottish Government's Planning Circular 4/2013: Planning Appeals](#). This is available on the Government's website or can be obtained in hard copy by contacting the Scottish Government's Central Enquiry Unit on 0300 244 4000.

If you wish to discuss any aspect of the appeal form or the process, please contact Planning and Environmental Appeals (DPEA) on 0300 244 6668.

Written queries can be sent to us at either by e-mailing dpea@gov.scot or by post to Planning and Environmental Appeals Division, Hadrian House, Callendar Business Park, Falkirk, FK1 1XR.