

# RTPI / POSW

## *Effective Appeals*

### “THE LOCAL AUTHORITY PERSPECTIVE”

(courtesy of the Vale of Glamorgan)

Steve Ball  
Principal Planning Officer  
(Development Control)

Justina Walsh  
Principal Planning Officer  
(Appeals & Enforcement)

**2<sup>nd</sup> March 2009**



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# “THE LOCAL AUTHORITY PERSPECTIVE”

A presentation in two parts: -

- Preparing for the appeal before it happens  
(Steve Ball)
- Presenting your case to the Inspectorate  
(Justina Walsh)

**2<sup>nd</sup> March 2009**



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Why Me?

(A good question?!)

- Development Control Officer since 1996
- 5 years in England as Planner/ Senior Planner dealing with Appeals, Enforcement and Applications
- 6 years at the Vale as Principal Appeals Officer
  - In excess of 400 appeals dealt with in that time
- Now Applications Team Leader
- .. and they asked me nicely, so how could I refuse!



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin



OH YES, YOU NEED SPECIFIC CREDENTIALS  
TO PRESENT FOR POSW?



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# A Changing Climate

- Increasing emphasis on reducing the extent of appeal submissions to PINS
- **Householder Appeals Service** being introduced in England (for appeals submitted post-April 1st) and likely to follow in Wales
- Shortened 12-week appeal period (so there should be no need for additional representations)
- Will involve electronic application files being copied to PINS for determination
- No additional documentation (should be) required



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Preparing for Change

- Within this context, there is an increasing need to ensure that internal procedures are reviewed to ensure that reports at application stage (especially delegated reports) are handled consistently and thoroughly..
- .. and with an appreciation that the case for refusal is not just an internal report but could ultimately comprise the Council's case at appeal (in full)
- The quality of decision is only as important as the quality of the case for refusal



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# How to Pre-empt appeals?

- A convincing case for refusal can avoid an appeal but, if not..
- ..... It needs to be sufficient to *convince an Inspector* !
- Quality of Report
  - It is no longer just about getting your boss to agree with you;
  - When you write to your boss, you *expect* them to understand (and hopefully agree with you)
  - But you cant expect an inspector to understand or agree with you if your report is missing detailed amplification / information
  - Just because it looks or ‘feels’ wrong, it has to be justified and related back to policy.

So...



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Pre-Empting an appeal

- Write your refusal report as if it were an appeal statement
- Do so on the basis that an Inspector knows **NOTHING** about the Council, area or its policies
  - *...it may be true!*
  - *... but obviously don't tell them that at the appeal!*
- You need to create a convincing argument
- I always call it a 'story'



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Pre-Emptying an appeal

Reports with a clearly-defined structure will allow you to tell the 'story' to the decision-makers (your boss; the Committee; the Inspector), and lead them where you want them to go

(In my opinion) This should include: -

## BEGINNING

- Site and development description;
- Relevant planning history & Policy context (attach relevant planning appeals as an appendix for ease of access at appeal)
- identification of National and Local Policy Context
- The characteristics of the site / Context
- A summary and analysis of all representations



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

## MIDDLE

- Identification of Main Issues
- Identify the CONTEXT
- Structured discussion focussing directly on each main issue in turn,
- You need to identify and describe the HARM
- You need to identify and describe the HARM
- You need to relate it to POLICY



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

## END

- drawing all elements together in conclusion, with a fully reasoned recommendation
- Frame your reason(s) for refusal carefully
  - Need to be clear and refer to up to date policies
  - Each ground for refusal **MUST** be substantiated in your report,
  - and be able to withstand close scrutiny at appeal, after all ...

**... YOU could be cross-examined on it !**



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Appeals against conditions

- Obviously, appeals not only related to the refusal of planning permission or other relevant consents, but can often relate to **conditions**
- Need for diligence when writing any report
- Justify any explicit (particularly non-standard) conditions in the main body of the report, and ensure that you are satisfied they meet the 'tests' (*Wednesbury*)
- **Reasons for conditions** state precisely why imposed (essentially, why it would otherwise be harmful)
- state the *policies* which relate to the need for the condition
- The appeal may be decided purely on the above



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

**A well-written report will do most of your work at any subsequent appeal**



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

Be careful...



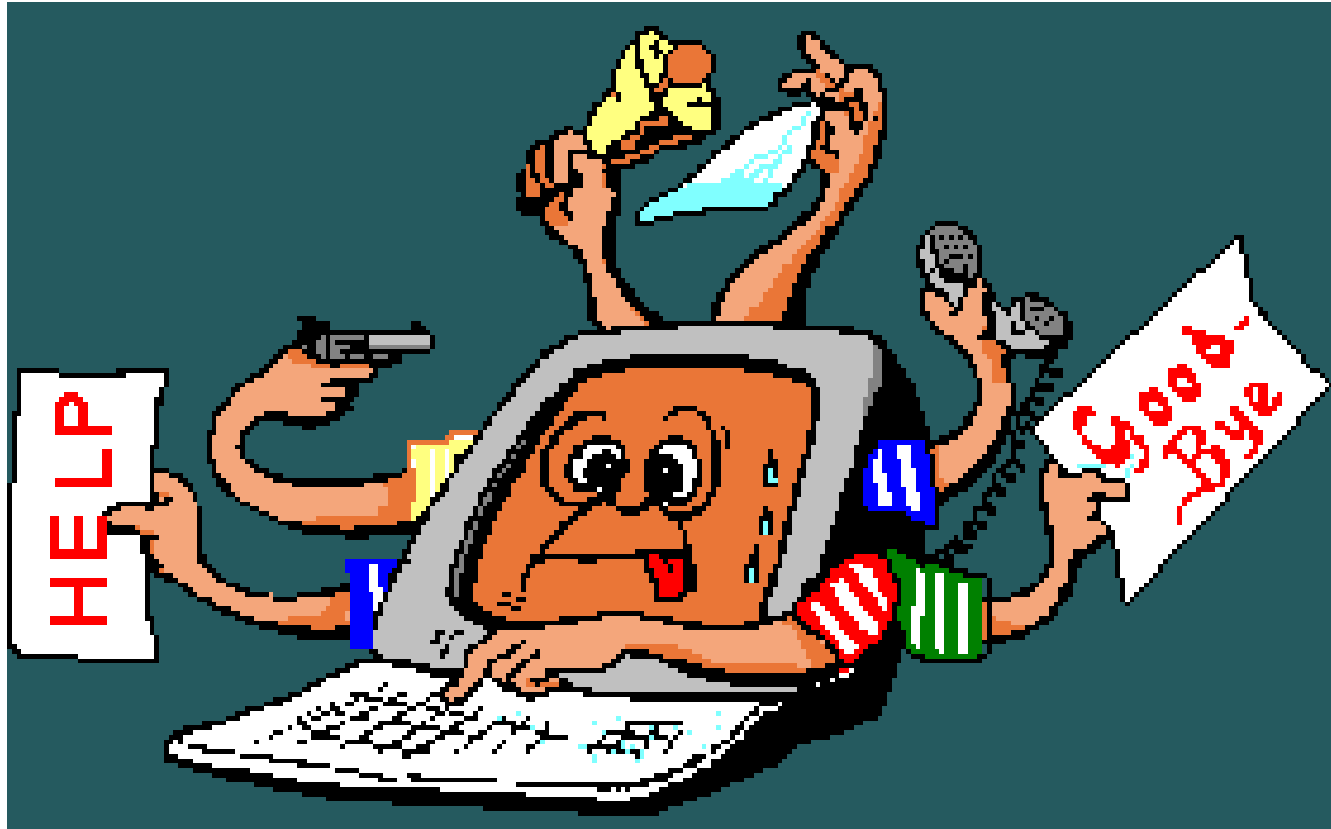
"Wait a minute! Aren't you the chap who refused planning permission on the St. Mary's church extension?"

~YGIAETH GY~



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# RTPI / POSW

## Effective Appeals

“THE LOCAL AUTHORITY PERSPECTIVE”

Part 2

Justina Walsh  
Principal Planning Officer (Appeals & Enforcement)  
Vale of Glamorgan

**2<sup>nd</sup> March 2009**



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Why Me?

Because they asked!!!



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Timetable

Keep to the deadlines !!!!

- The tables in the enforcement and planning appeals Circulars clearly set out the deadlines for all parties
- Start date letter – states the relevant dates
- Appeals Database
- Simple reference sheet on file
- Get confirmation that your submissions have been received.



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Written Reps

## A 'Slimmed Down' Approach

- What no statement ?!?!

Read through the report again and consider the arguments that have been made in the light of the appellant's grounds of appeal. If the report addresses all issues, no need to reinvent the wheel!!

- Simple statement -

Address the Appellant's grounds of appeal.

- Simple statement -

Providing new information and clarifying its relevance to the appeal



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Written Reps

## When a new statement is necessary

- Use a standard template with standard text and prompts for essential information
- Assume the Inspector knows nothing!!  
Take him by the hand through your case
- Structure your Statement
  - The site description – identify the site context
  - Clearly identify the development in question
  - Set out ALL relevant policy and guidance and identify the status of any Council policy or SPG
  - Identify main issues at the start.
  - Deal with each of the main issues – identify HARM
  - Comment on appellant's grounds of appeal.
  - Conclusion – recap the main issues and summarise your argument for each.
- Conditions – Don't worry, you will not prejudice your case



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Hearings and Public Inquiries

## Your Written Evidence and Preparing for the Hearing/Public Inquiry

- Set out your statement in a way that you feel comfortable with and take ownership of your arguments - Do not just 'cut and paste'.
- Again, lead the Inspector by the hand (see written reps)
- Appendix – When you refer to appendix, make the reference clear and easy to get to.
- Statement of common ground – not just for Public Inquiries.



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Hearings and Public Inquiries

## At the Hearing/Public Inquiry

- Prepare for all procedural matters. Attendance sheet, notification letter, etc
- Prepare, as best you can, your verbal submissions (e.g. description of the context of the site)
- Be precise with your verbal arguments – what is the HARM? Refer this back to policy and guidance
- Don't introduce any new evidence
- Be prepared for the fact that you and the appellant are not going to agree – don't get into a row!!!
- When the Inspector stops writing, it usually means that you are repeating yourself!!!



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin

# Enforcement Appeals

- Consider the grounds of appeal
  - And not just the boxes ticked by the appellant
- Identify the grounds of appeal
  - Repeat these in your statement
  - Make sure your arguments relate to the grounds of appeal
- Include a clear chronology of events
  - This can include the planning history so it doesn't have to simply be a list, it can form part of the 'description of events'
- Evidence and Appendix
  - This is often the essential part of your case. Again, make any references to it clear and make it easy to get to
- Conditions/under enforcement
  - prepare for the Inspector to use his powers to amend your Notice
  - Again, it's ok to suggest conditions - you will not prejudice your case



**RTPI**

mediation of space · making of place  
cyd drefnu gofod · creu cynefin