EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (APPEALS) (WRITTEN REPRESENTATIONS PROCEDURE) (ENGLAND) (AMENDMENT AND SAVING PROVISION) REGULATIONS 2026

2026 No. 122

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook MP, Minister of State for Housing and Planning at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Lucy Hargreaves, Deputy Director for Planning Development Management, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Bethan MacDonald at the Ministry of Housing, Communities and Local Government. Telephone: 030344 42802 or email: PDMCorrespondence@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 These Regulations provide for all appeals submitted under section 78(1) of the Town and Country Planning Act 1990 ("the 1990 Act") in relation to a decision on a planning application to be determined through the expedited written representations planning appeal procedure. The expedited written representations appeal procedure currently only applies to certain section 78(1) appeals, namely those against the refusal of householder development, advertisement consent and some minor commercial development. These Regulations also clarify that under the expedited appeal procedure no new material can be submitted by appellants when they appeal. The Regulations also replace some existing statutory notices with updated notices, to reflect the changes.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 An appeal may be made under section 78(1) of the 1990 Act against a decision by a local planning authority to refuse a planning application or against any conditions imposed with a grant of planning permission. (An appeal may be made under section 78(2) of the 1990 Act against the failure of a local planning authority to take a decision.) The appeal is made to the Secretary of State for Housing, Communities and Local Government. The Planning Inspectorate administers the planning appeals system, and planning inspectors determine appeals, on behalf of the Secretary of State.

5.2 The procedure for determining an appeal will depend on the complexity of the planning issues in each case. In the majority of cases, an appeal will be determined by written representations (94.7% in the year to March 2024, according to Planning Inspectorate statistics). In circumstances where it is necessary for the planning inspector to ask questions about the evidence, a hearing will be held (3.7% of appeals). In the most complex cases, and where it is necessary to test evidence under cross-examination, an inquiry will be held (1.6% of appeals).

5.3 There are currently two written representations appeal procedures. There is an expedited written representations procedure for householder, advertisement consent and minor commercial appeals against the refusal of permission, which are types of section 78(1) appeals. There is a standard written representations procedure for all other appeals being determined by written representations, including for other section 78(1) appeals.

5.4 The expedited written representations procedure allows for quicker determination of appeals because there is no opportunity for any of the appeal parties (appellant, local planning authority and interested parties) to submit further representations during the appeal. All representations submitted during the application phase will form part of the appeal. In effect, the appeal is determined on the same basis as the original planning application.

5.5 The standard written representations procedure allows appellants and local planning authorities to submit further information and evidence, including a full statement of case, and to comment on each other's representations. Third parties can also submit further representations, including comments on the appellant's case.

5.6 Ministry of Housing, Communities and Local Government statistics show that in the year ending March 2024, district level planning authorities decided 332,900 planning applications of which 285,300 (86%) were granted planning permission. In the same year, the Planning Inspectorate determined 14,409 planning appeals, of which 8,909 were determined through the standard written representations procedure, 4,342 were for householders and 390 were minor commercial appeals.

5.7 The time taken to decide appeals varies by appeal type. Planning Inspectorate data for March 2025 showed that appeals determined by the standard written representations procedure took an average of 29 weeks. Those determined through the householder appeals procedure (the expedited written representations procedure) took an average of 18 weeks, some 11 weeks faster.

5.8 The expedited written representations appeal procedure was first introduced for householder appeals in 2009. In 2013 the expedited written representations appeal procedure was extended to advertisement consent and minor commercial appeals.

These are all appeals submitted under section 78(1) of the 1990 Act, i.e. where the local planning authority has made a decision to refuse the application.

5.9 It is now considered that this expedited written representations appeals procedure could be applied to a wider range of section 78(1) planning appeals, and that it should become the default planning appeal procedure for section 78(1) appeals. This will mean that many appeals which were dealt with under the standard written representations procedure will in future be decided through the expedited procedure. The number of appeals decided through both written representations procedures will remain the same. Expanding the expedited procedure will allow more appeals to be decided more quickly. It will reduce pressure on local planning authorities by removing the need for them to submit a full statement of case, although they will need to ensure that the decision notice or officer's report is sufficiently detailed. Additionally, with no further opportunity to comment, it removes the need to process and publish representations from interested parties. It will reduce the burden on appellants by reducing the amount of documentation needed when submitting an appeal. It will reduce the burden on all parties by removing the opportunity for any comments at the appeal stage. By expanding the expedited written representations appeal procedure to a broader range of appeals, larger developments will also benefit from the streamlined process and quicker decisions, helping to unlock economic growth and accelerate the delivery of homes.

5.10 If, during an expedited appeal, the Planning Inspectorate, acting on behalf of the Secretary of State, considers that the expedited written representations procedure is not appropriate for an individual appeal, the appeal would be transferred to an appropriate, alternative appeal procedure, using existing provisions. This may happen, for example, if the planning inspector requires additional evidence or needs to test the existing evidence, or if there has been a material change in circumstances, a change in legislation or a change in policy The transfer could be to the standard written representations procedure, a hearing or an inquiry.

What was the previous policy, how is this different?

5.11 Most planning appeals (8,909 in 2023-24) are decided through the standard written representations procedure. In March 2025, appeals decided through the standard written representations procedure were taking 11 weeks longer than those decided by the expedited written representations appeals procedure, which operates for householder, advertisement consent and minor commercial appeals.

5.12 The current legislation does not allow for any appeals other than householder, advertisement consent and minor commercial appeals to be decided through the expedited procedure. These Regulations provide for all planning appeals relating to decisions on planning applications which are submitted under section 78(1) of the 1990 Act to be decided through the expedited written representations appeal procedure. This includes householder, advertisement consent and minor commercial appeals, which are already dealt with through the expedited procedure. Where the expedited procedure is not appropriate, the appeal will be transferred to a more appropriate appeal procedure. This could be the standard written representations procedure, a hearing or an inquiry. By moving the majority of planning appeals into the expedited written representations appeals procedure, appellants will receive quicker decisions on their appeals, so will know sooner whether or not they can take forward their proposed development.

5.13 Currently, appellants submitting a section 78(1) planning appeal would submit a completed appeal form, a copy of the application, the decision notice, everything they

had sent to the local authority relating to the application and any other documents not previously sent to the local authority. Depending on the circumstances, they could also submit a full statement of case and, if they considered the appeal should be determined through a hearing or an inquiry, a draft statement of common ground. The Regulations set out that the only documents required for all planning appeals submitted under section 78(1) of the 1990 Act in relation to a decision on a planning application are a completed appeal form, the original planning application and the local authority decision notice. On receiving such an appeal, the Planning Inspectorate will consider the information before them and determine (as they currently do, under existing provisions in section 319A of the 1990 Act) which is the most appropriate appeal procedure. This triage process will aim to identify within a week of receipt of the appeal what the appropriate appeal procedure is. In cases where the appeal is not to be determined through the expedited procedure, the Planning Inspectorate will advise the appellant and other appeal parties of the appropriate procedure (standard written representations, hearing or inquiry) and what additional information can be submitted.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 78 of the 1990 Act provides for appeals against certain determinations, or non-determinations, by the local planning authority. It provides for appeals against the determination, or non-determination, of applications for planning permission, or approval of matters related to conditional planning permission or permitted development. A modified section 78 of the 1990 Act (modified by regulations made under section 220 of the 1990 Act) applies to appeals relating to advertisement consent.

6.2 Section 319A of the 1990 Act allows the Secretary of State to determine the procedure to be used to determine the appeal, which could be written representations, a hearing or an inquiry. This applies to all appeals made under section 78 of the 1990 Act.

6.3 The details of each procedure used to determine planning appeals in England are set out in separate regulations, according to the procedure. The written representations procedures (standard and expedited) are set out in the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (SI 2009/452), as amended ("the 2009 Regulations"). These Regulations amend the 2009 Regulations so that the expedited written representations procedure can be applied to a wider range of appeals.

6.4 The Town and Country Planning (Development Management Procedure) (England) Order 2015 (SI 2015/595), as amended, ("the 2015 Order") sets out the procedures for dealing with planning applications and the submission of appeals. Article 15 sets out publicity requirements relating to planning applications, including the information it needs to contain. Article 37 sets out the time limits within which appeals must be submitted and the documents which must accompany the notice of the appeal. Schedule 2 contains model notices which can be used in publicity relating to applications and appeals.

6.5 These Regulations amend the 2015 Order so that all appeals under section 78(1) of the 1990 Act are subject to the same documentation requirements, apart from appeals against the refusal to approve a biodiversity gain plan the requirements for which are set out in Article 37E of the 2015 Order. Article 37(3)(a)(ii), which allowed the

submission of new evidence at the appeal stage, has been disapplied to appeals arising from planning applications made on or after 1 April 2026.

6.6 Regulation 2 of these Regulations amends the 2009 Regulations. Regulation 2(2) amends Regulation 3 of the 2009 Regulations.

6.7 Regulation 2(2)(a) specifies that all planning appeals submitted under section 78(1) of the 1990 Act in relation to an application made on or after 1 April 2026 are to be determined through the expedited written representations appeal procedure (Part 1 of the 2009 Regulations). This is in addition to the existing appeals (householder appeals, minor commercial appeals and advertisement consent appeals) which are already determined through the expedited procedure. The Regulation contains explicit reference to section 78(1) appeals in relation to an application for advertisement consent, to confirm that they are included in the expedited procedure, because these appeals are submitted under a modified section 78(1).

6.8 Regulation 2(2)(b) provides for all other appeals submitted under section 78 of the 1990 Act to be dealt with through the full written representations appeals procedure (Part 2 of the 2009 Regulations). This includes all appeals submitted under section 78(2) of the 1990 Act, including those relating to non-determination of applications for advertisement consent which are submitted under a modified section 78(2). This regulation also applies to all appeals in relation to discontinuance notices (relating to withdrawal of deemed consent).

6.9 Regulations 2(3) and 2(4) amend headings within the 2009 Regulations, removing reference to the expedited written representations procedure only applying to householder, advertisement consent and minor commercial appeals.

6.10 Regulation 3 of these Regulations amends the 2015 Order. Regulation 3(2) amends Article 15(7)(f) of the 2015 Order, changing the publicity obligations on local planning authorities relating to the procedures for deciding planning applications. They must explain that there will not be any opportunity to submit further representations if there is a subsequent appeal under section 78(1) of the 1990 Act which is to be decided through the expedited written representations appeal procedure, and that any representations made during the planning application process will be forwarded to the Secretary of State, for consideration during the appeal. This requirement currently only applies to householder and minor commercial applications.

6.11 Regulation 3(3) amends the documentation requirements in Article 37 of the 2015 Order for all appeals submitted under section 78(1), so that they are similar to the current requirements for householder and minor commercial appeals. Appellants will be required to submit only a completed appeal form, a copy of the planning application and the notice of the decision. Regulation 3(3)(b) removes the ability for appellants to submit new evidence when submitting an appeal under section 78(1).

6.12 Regulation 3(4) replaces 6 of the 8 template notices in Schedule 2 to the 2015 Order with 2 new notices. These notices can be used by applicants and local planning authorities when they notify others of a planning application or an appeal. The new notices amalgamate existing separate notices and advise third parties that they will not be able to submit further representations if there is an appeal which is to be determined through the expedited written representations appeals procedure.

6.13 Regulation 4 provides that the change in the documentation requirements in Regulation 3(3) does not apply to householder or minor commercial appeals which relate to applications made before these Regulations came into force. This means that when householder or minor commercial appeals relating to applications made before

the coming into force date are submitted, they may include plans, documents or drawings which had not been sent to the local planning authority previously, although they may not include anything which relates to amendments which were proposed after the local authority made their decision.

6.14 The changes introduced by these Regulations will apply to appeals submitted under section 78(1) of the 1990 Act in relation to planning applications made on or after 1 April 2026. They also apply to appeals submitted under section 78(1) of the 1990 Act as modified by regulations made under section 220 of the 1990 Act in relation to applications for advertisement consent which are determined on or after the 1 April 2026.

Why was this approach taken to change the law?

6.15 The procedures for the determination of planning appeals are set out in regulations. Amending regulations is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The proposal to expand the expedited written representations appeal procedure to more appeals formed part of the public consultation '*An accelerated planning system*', (https://www.gov.uk/government/consultations/an-accelerated-planning-system-consultation/an-accelerated-planning-system#simplified-process-for-planning-written-representation-appeals) which ran from 6 March 2024 to 1 May 2024. A government response to this consultation has not been published due to a change in administration in July 2024. However, the responses relating to the proposal to expand the expedited written representations appeal procedure are summarised below.

7.2 Respondents to the consultation were generally supportive of the proposals. 214 (74%) out of 291 respondents agreed with the principle to extend the expedited written representations appeal procedure to more appeals, and 49 (17%) disagreed.

7.3 The consultation proposed that a wider range of appeal types should be included in the expanded expedited written representations appeals procedure. 178 (64%) of the 280 respondents who answered the question agreed with the appeal types proposed for inclusion and 67 (24%) did not.

7.4 Among the respondents who disagreed with some of the proposed appeal types, it was suggested that appeals relating to listed buildings consent should be excluded due to the need for thorough consideration of heritage issues. Similarly, appeals relating to lawful development certificates should be excluded because evidence may need to be tested under oath. As a result of the consultation, we therefore decided to exclude these types of appeals from the expedited written representations appeals procedure. Appeals relating to the refusal of works to protected trees already benefit from an expedited appeals procedure so were also excluded. We also decided to exclude appeals relating to the refusal of modifications or discharge of planning legal agreements, appeals relating to the refusal of consent under the Hedgerow Regulations and appeals relating to anti-social high hedges because it was not considered proportionate to do so. This was because it would involve amending primary legislation or several pieces of secondary legislation and only small numbers of appeals would be affected.

7.5 Some consultees suggested that appeals relating to the refusal of prior approval should be included within the expedited written representations appeal procedure because

there were limited issues to be considered. As a result of this suggestion, we decided that it would be appropriate to include prior approval appeals in the expedited written representations procedure. Prior approval appeals are made under section 78 of the 1990 Act.

7.6 There were mixed views about the loss of opportunity for all parties, including third parties, to submit further representations during the appeal. Of the 286 respondents who answered a question on this, 122 (43%) said they had concerns about removing the ability for additional representations on cases following the expedited written representations procedure, 138 (48%) said they did not, and 26 (9%) said they did not know. Some felt it was important for third parties to be able to be actively involved in the appeal and to be able to submit further representations, making use of their local knowledge. Others felt that these didn't often add value because they usually repeated points already made at the application stage. Some had no concerns because the appeal would be considered on the same evidence as the application. Some raised the issue of there needing to be a mechanism to respond to changes in circumstances, new evidence or new issues.

7.7 There were mixed views about the removal of the opportunity for appellants to be able to amend the development between the application and appeal. Some respondents supported this, citing that it was fair that the appeal was dealt with on the same basis as the original application, but others felt that appellants should be able to refine their application and respond to issues raised in the local planning authority's refusal letter.

7.8 There were mixed views over whether or not the planning officer's report contained sufficient detail to support the local authority's case at appeal. There was concern about appeals which followed a Planning Committee refusing an application contrary to the recommendation of the planning officer, where the officer's report may not provide the information needed to support the authority's case at appeal.

7.9 A total of 294 respondents answered the question about the need for there to be an option for written representations appeals to be determined under the standard written representations procedure where this was considered appropriate by the Planning Inspectorate. 246 (84%) of respondents said they agreed that there should be an option for expedited written representations appeals to be determined under the standard procedure where the expedited procedure was not appropriate, 22 (7%) said they did not, and 26 (9%) said they did not know. There were mixed views about who should be involved in choosing the appeal procedure, with a majority commenting that the Planning Inspectorate should decide, with some suggesting this should be in conjunction with the local planning authority and / or the appellant.

7.10 There was strong support for retaining the current time limits in which to lodge appeals. Of the 286 respondents who answered this question, 218 (76%) said they agreed that the existing appeal time limits should remain should the expedited written representations appeals be introduced, 35 (12%) said they did not, and 33 (12%) said they did not know. Some respondents suggested that retaining the current appeal time limits would allow appellants time to submit a revised planning application, which could reduce the need to appeal. Some respondents wanted shortened appeal time limits because it would be easier to submit an appeal with less documentation required to appeal and because a shortened time limit would reduce the likelihood of any changes in circumstances.

8. Applicable Guidance

8.1 The Government has published guidance on Appeals at: https://www.gov.uk/guidance/appeals. This will be updated and made available following the coming into force of this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 Overall, there will be a benefit to business, charities or voluntary bodies because the expedited written representations appeals procedure is deregulatory in effect, reducing bureaucracy and its associated costs, and enabling quicker decisions.

9.3 There will be a small re-familiarisation process for those who have submitted recent planning applications. Some applicants for planning permission may be impacted negatively because they consider that they will need to submit more information and evidence at the application stage, although this is current good practice. Many appellants will be impacted positively by the removal of the requirement to submit additional evidence at the appeal stage and by receiving an appeal decision more quickly. Where the business, charity or voluntary body is a third party, they will benefit from a reduced administrative burden by only being able to submit representations at the application stage. Overall, there will be a benefit to business, charities or voluntary bodies because of a reduced administrative burden and a quicker decision.

9.4 The legislation does impact small or micro businesses. The impact on small or micro businesses is the same as the impact on business, charities and voluntary bodies, which is deregulatory in effect, with an overall benefit to businesses.

9.5 The impact on the public sector is on local planning authorities and on the Planning Inspectorate. There will be a familiarisation process to be gone through, to adjust to expanding the existing expedited procedures to more types of appeals. There will be some one-off, start-up costs, to update guidance and relevant notices. There may be a negative impact on some local planning authorities who will have to ensure that there is sufficient detail in their refusal and decision notices to set out their case at appeal. This negative impact is offset by the positive impact of not having to provide additional information and evidence at the appeal stage for most appeals. There is a positive benefit for the Planning Inspectorate which will have reduced administrative costs and, with less documentation to consider, more appeals will be processed more quickly and decisions issued sooner.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Ministry of Housing, Communities and Local Government will continue to keep the appeals process under review. This legislation will also be monitored through routine engagement with the sector and key stakeholders. In addition, the Planning Inspectorate publishes statistics on its performance and about the outcome of appeals, so the impact of the legislation on appeal decision times can be measured, including

whether the Planning Inspectorate has met its commitment of deciding 98% of written representations appeals within 16 to 20 weeks by 2027. The Planning Inspectorate also regularly surveys its customers and uses the feedback to improve its services. A statutory review clause has therefore not been included for this instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of State for Housing and Planning, Matthew Pennycook MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) (Amendment and Saving Provision) Regulations 2026 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").