



The Planning Inspectorate

Guide to taking part in planning, listed building and conservation area consent appeals proceeding by an inquiry - England

6 March 2014

Guide to taking part in planning, listed building and conservation area consent appeals proceeding by an inquiry – England

1 Introduction

1.1 This guide explains how, if you are interested in the outcome of an appeal, you can make your views known.

1.2 Please note – there are separate guides for appeals that are proceeding by the written representations or hearing process. You can access all our guides through the Planning Portal:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess>

1.3. **If you need this guide in large print, in audio format or in Braille, please contact our Customer Support Team on 0303 444 5000.**

2 Who decides an appeal and what are the rules?

2.1 Planning, listed building and conservation area consent¹ applications are made to the local planning authority (LPA) which will usually be the local council but may be a National Park Authority. Appeals are made to us and may be made for a number of reasons, but most are made because the LPA has refused permission or consent.

2.2 Nearly all appeals are decided by our Inspectors; a very small percentage are decided by the Secretary of State - these tend to be the very large or contentious proposals.

2.3 For:

- (a) an appeal in relation to an application for planning permission; or
- (b) an appeal in relation to listed building consent; or
- (c) an appeal in relation to conservation area consent;

the inquiry is held under:

The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000/1625 (as amended)

and the very few appeals decided by the Secretary of State are held under:

The Town and Country Planning (Inquiries Procedure) (England) Rules 2000/1624 (as amended).

¹ From 1 October 2013, the need to obtain conservation area consent for the demolition of an unlisted building in a conservation area was replaced by the need to obtain planning permission. For further information please see: <http://planningguidance.planningportal.gov.uk/> under "Conserving and enhancing the historic environment".

3 How you find out about the appeal

3.1 If you wrote to the LPA about the planning application:

- it should write to tell you about the appeal after we have accepted it as valid; and
- when the arrangements have been made for the inquiry it should let you know when and where it will take place.

3.2 The appellant must display details of the inquiry, including the time and place, on the site of the proposed development 2 weeks before the inquiry.

3.3 These are the minimum publicity requirements. Your LPA may give appeals more publicity and will probably put information on its website. It may publish details of the inquiry in a local newspaper if it thinks it is necessary.

4 The inquiry procedure

4.1 At:

Annexe A there is a timetable for planning appeals:

- where the local planning authority's decision notice is dated 30 September 2013 or earlier;
- where the local planning authority was due to make its decision on 30 September 2013 or earlier but has failed to do so;

which also applies to all appeals which are recovered for the Secretary of State to make the decision (rather than one of our Inspectors) which are proceeding by an inquiry. This does not depend on the date of the local planning authority's decision.

Annexe B there is a timetable for planning appeals:

- where the local planning authority's decision notice is dated 1 October 2013 or later;
- where the local planning authority was due to make its decision on or after 1 October 2013 but has failed to do so.

5 What you can do

5.1 The LPA will send us copies of any letters of support or objection it received about the application while considering it. These will be fully considered by the Inspector who decides the appeal.

5.2 If you did not write at application stage, or you did write and now have something new to say, you can send us your representations about the appeal.

5.3 You should be able to see copies of the appeal documents, including the appellant's representations at the LPA's offices before the deadline for you to make your comments.

5.4 The time limit for sending representations to us is important, and everyone taking part in an appeal must follow it. **If you send us representations after the end of the time limit, we will not normally accept them. Instead we will return them to you. This means that the**

Inspector will not see them and so will not be able to take them into account.

5.5 So you **must** make sure that we receive your representations within the deadline given by the LPA when it notified you of the appeal.

5.6 When you send us your representations you should include:

- your name and address;
- the Planning Inspectorate appeal reference number (this will start APP/...);
- the address of the appeal site;

and say either:

- 'I am against the appeal proposals' and explain whether it is for the same reasons as given by the LPA or, if not, explain your own reasons; or
- 'I support the appeal proposals' and explain why.

5.7 You can make your representations online through the Planning Portal using the search facility:

www.planningportal.gov.uk/planning/appeals/online/search

or you can write to or email us. The LPA should have told you our Case Officer's contact details. Our Case Officer is responsible for the administration of the appeal.

5.8 If you send us your representations in a letter, unless your handwriting is very clear it would help if you are able to have your representations typed. Please use **black** ink. If possible, please send us 3 copies and note that we do not acknowledge receipt.

5.9 We will copy your representations to the appellant, to any statutory parties and to the LPA (we refer to these as "the main parties") where they will be available for anyone to see them.

5.10 However, if we consider that your representations contain libellous, racist or abusive comments, we will send them back to you before the Inspector or anyone else sees them. If you take out the libellous, racist or abusive comments, you can send your representations back to us; **but** you must send them back before the time limit ends.

5.11 We do not accept anonymous representations, but you may ask for your name and address to be withheld. If you ask us to do this you should make sure that your representations do not include any other information which may identify you. We will copy your representations, with your name and address removed, to the main parties, and they will be seen by the Inspector who may give them less weight as a result.

5.12 If you indicate that you do not want us to copy your representations to the main parties we will return them. They will not be seen by the Inspector and, therefore, will not be taken into account. This is because the Inspector can only take into account representations which have been copied to the main parties and are available to be seen.

6 What is considered?

6.1 The Inspector can only take into account information and evidence that is relevant to the appeal. This could cover a wide range of issues, but those that apply are usually set out in the LPA's decision notice.

7 If you decide to send documents to support your representations

7.1 Please note that we are unable to return any documents or photographs.

7.2 Please:

- use a font such as Arial or Verdana in a size of 11 point or larger;
- use **A4** paper wherever possible;
- number the pages of the documents;
- make sure photocopied and scanned documents are clear and legible;
- use black and white for documents unless colour is essential;
- put any photographs (both originals and photocopies should be in colour), maps, plans, etc, in a **separate appendix** and cross-reference them within the main body of the document;
- print documents on both sides of a page. You should use paper of good enough quality that something printed on one side of the page does not show through to the other side;
- ensure that the scale and orientation of any maps and plans are shown clearly. If you are sending maps or plans by email or through the Planning Portal you **MUST** tell us the paper size;
- do not send original documents unless we specifically ask for them.

7.3 Please see Annexe J: "Communicating electronically with us" of our "Procedural Guide: Planning appeals – England – 6 March 2014" for additional guidance about sending us documents through the Planning Portal or by email:

http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf

8 Audio/video evidence

8.1 We will return any audio/video evidence sent to us in advance of the inquiry. You may send a written summary which will be seen by the Inspector, the appellant, statutory parties, any Rule 6 (6) party (see paragraph 9.6) and the LPA. Please send (3 copies if possible if not sending electronically) within the 6 week deadline for representations. Also you may ask the Inspector at the inquiry if he or she is willing to accept the audio/video evidence and allow it to be played at the inquiry.

8.2 It is your responsibility to contact the LPA to find out whether it has suitable equipment at the venue to access the evidence, or if it will allow you to use your own. The equipment must be suitable to play the evidence so that everyone can see/hear it.

8.3 If the evidence is accepted by the Inspector it will become part of the inquiry evidence and will be retained by the Inspector. You will need to have additional copies of the audio/video evidence available as if the Inspector allows it to be played these copies will be given to the appellant, the LPA, and all those entitled to appear at the inquiry. Our Case Officer will be able to tell you how many copies you will need to provide.

9 Before the inquiry

9.1 Local people are encouraged to take part in the inquiry process. Local knowledge and opinion can often be a valuable addition to the evidence given by the appellant and the LPA.

9.2 The appellant and LPA should jointly prepare a statement of common ground. This should list all agreed matters and should include basic facts such as the site description, area, planning history, relevant planning policies, and as many other matters as possible relating to the application.

9.3 Before going to the inquiry, if you want to see everything that the appellant and the LPA have written, you will be able to see copies of all the appeal documents at the LPA's offices.

9.4 Depending on whether you oppose or support the appeal you may wish to consult the LPA or the appellant to find out what their position will be at the inquiry to help you decide whether your position can be satisfactorily represented by them.

9.5 Inquiries are open to members of the public, and although you do not have a legal right to speak, the Inspector will normally allow you to do so. If you want to speak at the inquiry, you need to think about what you want to say and how you want to say it. Some people prefer to make, or read out, a brief statement giving their views. If there are several people with the same views, it is a good idea for one person to speak on behalf of the others. A group of interested people may appoint one agent, solicitor, or barrister (who would be their "advocate") - to represent them all.

9.6 If you/the group want to take a leading role in the inquiry and call your own witnesses, you should contact us at the earliest possible stage. Under Rule 6(6) (of the Inquiries Procedure Rules) we may require you/the group to provide a statement of case before the inquiry which should include details of any documents you will produce at the inquiry. If we ask for this information, and you provide it, we will arrange for copies of the appellant's and LPA's statements to be sent to you.

9.7 For further information please see the "Guide to Rule 6 for interested parties involved in an inquiry – planning appeals and called-in applications - England" on the Planning Portal:
http://www.planningportal.gov.uk/uploads/pins/guide_rule_6.pdf

9.8 The starting time for the first day of the inquiry will normally be 10:00, but the notification letter you receive from the LPA and the notice displayed on the site will contain the starting time for the particular inquiry so you should check this.

10 Inquiry venue

10.1 We ask the LPA to arrange the inquiry venue. Inquiries are usually held in LPA offices, village halls or community centres. We have set out the facilities that an inquiry venue should include. You can access our document “The venue and facilities for public inquiries and hearings” on the Planning Portal:

http://www.planningportal.gov.uk/uploads/pins/venue_and_facilities_for_public_inquiries_and_hearings.pdf

11 People with disabilities

11.1 We want to hold all inquiries in buildings with proper facilities for people with disabilities. If you, or anyone you know, want to go to the inquiry and you have particular needs, please contact the LPA to confirm that it can make proper arrangements.

12 Openness and transparency

12.1 Inquiries are open to journalists and the wider public, as well as interested people. Provided that it does not disrupt proceedings, anyone will be allowed to report, record and film proceedings including the use of digital and social media. Inspectors will advise people present at the start of the event that the proceedings may be recorded and/or filmed, and that anyone using social media during or after the end of the proceedings should do so responsibly.

12.2 If you want to record or film the event on equipment larger than a smart phone, tablet, compact camera, or similar, especially if that is likely to involve moving around the venue to record or film from different angles, you should contact us and the LPA in advance to discuss arrangements.

13 What happens at the inquiry?

13.1 An inquiry is the most formal of the appeal procedures, because it usually involves larger or more complicated appeals. These are often cases where expert evidence is presented, and witnesses are cross-examined (questioned). An inquiry may last for several days, or even weeks. It is not a court of law, but the proceedings will often seem to be quite similar.

13.2 The parties may be formally represented by advocates. As well as the appellant and the LPA, some interested parties (statutory parties and Rule 6 (6) parties) are entitled to appear and give evidence.

13.3 The inquiry procedure allows for the presentation of detailed and technical evidence and for the cross examination of expert and other witnesses by the opposing party. The Inspector will take an inquisitorial role to ensure that evidence is thoroughly tested so that she/he can make a properly reasoned decision.

13.4 At the start of the inquiry the Inspector will agree the sitting times and starting times. It is often agreed that the inquiry will start at an earlier time on subsequent days. Inquiries usually sit until about 17:00 or 17:30 each day. There will usually be a mid-morning and mid-afternoon break and a 1 hour

adjournment for lunch. The Inspector should not be approached during breaks because other participants in the inquiry would not know what was being said.

13.5 An evening inquiry session is sometimes held if there are a significant number of interested people who cannot attend during the daytime inquiry sessions. This is at the discretion of the Inspector and dependant on there being a suitable inquiry venue.

13.6 If you want to speak at the inquiry, it is important that you are there when it opens, because this is when the Inspector will:

- go through some routine matters;
- tell everyone about the timetable and the order that the proceedings will take; and
- ask if any interested people want to speak at the inquiry and will register their names.

13.7 Interested people may appear and give evidence at the Inspector's discretion. An Inspector would rarely refuse a request to appear at the inquiry.

13.8 At this stage, you should only give your name and address, and say whether you are for or against the appeal (or taking a neutral stance).

13.9 The Inspector will then usually give an outline of what the case is about and what the main issues are that need to be covered/dealt with. At a long inquiry, it is difficult to predict at what stage interested people will be given the chance to speak (normally you will speak after all the evidence of the appellant and the LPA has been heard). If you cannot stay at the inquiry all the time, tell the Inspector at this stage. The Inspector will understand and will try to help by hearing your representations at a different stage of the inquiry, if that is possible. However, if you wish to ask one of the main parties questions, you will need to arrange to be at the inquiry when they are giving their evidence.

13.10 The Inspector has the discretion to decide the order of appearances at the inquiry. However, paragraphs 13.11 to 13.14 give an order of appearances an inquiry will often follow.

13.11 The appellant (or their advocate) will usually be asked to make a brief (10 to 15 minutes) opening statement first, to set the scene and describe the proposal. The LPA will then make its brief opening statement. Each of the LPA's witnesses will then give their evidence in turn. After giving evidence each will be cross-examined (questioned) by the appellant or their advocate. After each cross-examination the Inspector will normally then give the opportunity for anyone who has indicated their support for the proposals to ask questions. The witness will be re-examined by the LPA or its advocate.

13.12 Sometime interested people opposed to the proposals, who have indicated that they wish to speak, will be invited to present their evidence at this point. On other occasions this evidence is heard after the case for the appellant. Unless they have indicated that they are not prepared to answer questions (see paragraph 16.3), interested people may be asked questions by the appellant or their advocate.

13.13 The appellant or their advocate will then present their case, following the same procedure. Each of their witnesses in turn will give evidence and be cross-examined by the LPA. The Inspector will normally then give the opportunity for anyone who has indicated their opposition to the proposals to ask questions. Each witness will then be re-examined by the appellant or their advocate.

13.14 Any interested people who support the proposals and who have indicated that they wish to speak will be invited to present their evidence at this point. Unless they have indicated that they are not prepared to answer questions, they may be asked questions by the LPA or its advocate.

14 Inspector's questions

14.1 At any stage during proceedings - but normally after cross examination and re-examination of a witness has taken place - the Inspector may ask questions. Questions may be put to all those who give evidence, including interested people.

15 Re-examination

15.1 As explained in paragraphs 13.11 and 13.13 after cross-examination, the advocate is allowed to re-examine each of their witnesses. If a witness has made a mistake or got in a muddle during their cross-examination, their advocate can try to correct things by discussing the subject again and asking further questions of their witness to ensure that their case is clarified. It is not the function of re-examination to invite the witness to revisit clear answers given in cross-examination. No 'new' evidence can be put forward and leading questions ie a question in which the answer is suggested by the question, are not normally allowed (for example "Would you agree that...").

16 Giving evidence on oath

16.1 Where the inquiry involves a dispute between the appellant and the LPA about the facts it is usual for the evidence to be given under oath (which the Inspector will administer) or after 'affirming'. If your evidence/representations concerns facts you will be required to give your evidence/representations under oath or an affirmation.

17 Taking part in the inquiry

17.1 If you told the Inspector at the start of the inquiry that you wanted to speak, and you decide to ask any of the witnesses a question (or questions) you must make sure that your questions are relevant to the evidence the witness has given. You should not repeat questions that have already been asked.

17.2 When the cases for the main parties have been completed, at the Inspector's discretion, anyone who is interested in the appeal usually has the chance to speak and present their case.

17.3 When you give your views you should not repeat arguments that you have already made in written representations, or which someone has already said, as this does not help the Inspector, or make the point more relevant.

However, there should be no 'surprises' and 'new' evidence should not be presented at this time as it could result in the Inspector having to adjourn the inquiry so that such evidence can be properly considered and answered. You should have set out your main concerns in your representation sent at the 6 week stage.

17.4 The Inspector will usually ask if you are willing to answer questions about your evidence. You do not have to do this, though it is often helpful to do so and it may add weight to your evidence. Do not feel intimidated. The Inspector will not let anyone ask you hostile or unfair questions. If you oppose the appeal the appellant's representative may ask you questions. If you support it, the LPA's representative may ask you questions.

18 Discussion of planning conditions

18.1 An inquiry will usually include a discussion about the conditions which may be imposed if the proposal is granted planning permission. The fact that conditions are discussed does not mean that the appeal will be allowed and planning permission granted or that, if allowed, conditions will be imposed.

19 Closing statements

19.1 Finally (so far as dealing with evidence about the case is concerned) there are closing statements which are an opportunity for the appellant, the LPA and any statutory and Rule 6 parties to sum up their case. They are usually read out from a pre-prepared version which they will give to the Inspector and those other parties who have summed up their case.

20 Application for appeal costs

20.1 The Inspector will then hear any applications for costs. All parties to an appeal are normally expected to meet their own expenses.

20.2 There is guidance about costs awards in the Department for Communities and Local Government's planning practice guidance at: <http://planningguidance.planningportal.gov.uk/blog/guidance/appeals/>

20.3 It is important that you read this because it explains how, when and on what basis you can make an application or have an application made against you.

20.4 Costs may be awarded in response to an application for costs by one of the parties. Also costs may be awarded at the initiative of the Inspector.

21 The close of the inquiry

21.1 After hearing any applications for costs the Inspector will formally close the inquiry. This is normally followed by the Inspector visiting the appeal site (in certain circumstances that may have occurred during the inquiry). Because the inquiry has been formally closed there can be no further discussion about the appeal during that visit.

22 The decision

22.1 When made, the decision will be published on the Planning Portal and can be viewed using the search facility:
www.planningportal.gov.uk/planning/appeals/online/search

23 Feedback, complaints and challenges

23.1 We are always looking at ways to improve its performance and at some inquiries participants may be asked to complete a feedback form.

23.2 If you wish to make any comments (whether praise or a complaint) or have questions about the decision, or the way we have handled the appeal, you can contact our Quality Assurance Unit.

The Planning Inspectorate
Quality Assurance Unit
1/23 Hawk Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Phone: 0303 444 5000

Fax: 0117 372 8139

Email: feedback@pins.gsi.gov.uk

<http://www.planningportal.gov.uk/planninginspectoratefeedback>

23.3 We will investigate a complaint and you can normally expect a full reply within 20 working days. In some cases where the issues raised are complex, a more detailed investigation will be needed, and we will often have to get the views of those involved with the appeal. This may mean that we cannot reply to you as quickly as we would like. For further information please see Annexe R "Feedback and complaints" of our "Procedural Guide: Planning appeals – England – 6 March 2014":
http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf

23.4 However, we cannot change an appeal decision. This can only happen if the decision is successfully challenged on legal grounds in the High Court. If you decide to challenge the decision, you must apply to the High Court within 6 weeks of the date of the decision

23.5 To be successful, you would have to show that:

- an error has been made in law; or
- we did not follow the proper procedures and that your interests may have been harmed.

23.6 If your challenge is successful, the High Court will return the appeal to us for it to be decided again. This does not necessarily mean that the original decision will be changed or reversed. For further information please see

Annexe M "How can a decision be challenged" of our "Procedural Guide: Planning appeals – England – 6 March 2014":
http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf

24 Complaints about a decision made by administrative staff

24.1 If you wish to complain about a decision made by administrative staff during the processing of an appeal you should write to our Case Officer giving clear reasons why you think we should review our decision.

24.2 For decisions made by administrative staff during the processing of an appeal there is no statutory right to challenge that decision in the High Court. However it is possible to make an application for judicial review of such a decision. For further information please see Annexe M "How can a decision be challenged" " of our "Procedural Guide: Planning appeals – England – 6 March 2014":
http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf

24.3 The application must be made not later than 6 weeks after the grounds to make the claim first arose.

24.4 For information about how to do this you should contact:

The Administrative Court at the Royal Courts of Justice
Queen's Bench Division
Strand
London
WC2A 2LL
www.courtservice.gov.uk

25 Contacting us

25.1 To contact us about a particular appeal you should contact our Case Officer – the LPA should have given you their details. For general enquiries our contact details are:

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Helpline: 0303 444 5000
E-mail: enquiries@planning-inspectorate.gsi.gov.uk

26 Getting help

26.1 If you would like help in taking part in an appeal, you can contact Planning Aid. Planning Aid provides free and independent professional advice on town and country planning issues to people and groups (who cannot afford consultancy fees:

Planning Aid England
41-42 Botolph Lane
London
EC3R 8DL

Advice Line: 0330 123 9244
Switchboard: 020 7929 9494
Fax: 020 7929 9490
E-mail: info@planningaid.rtpi.org.uk
Website: www.rtpi.org.uk/planningaid

27 How we use your personal information

27.1 If you participate in a planning, listed building or conservation area consent appeal, then the type of personal information contained in your representations will normally include your name, contact details and any other personal information you choose to provide.

27.2 We use the information provided to process the appeal, and this includes making your written representations available to the appellant, LPA and other statutory parties. The guidance in this document explains the appeal process in more detail and you are advised to read this guidance before providing any representations. For further details please see our privacy statement:

www.planningportal.gov.uk/planning/appeals/online/about/privacystatement

2.7.3 If you have any queries about our use of your personal information please contact our Data Manager at the address set out above in the paragraph called "Contacting us".

Timetable for the inquiry procedure

This applies to appeals:

- where the local planning authority's decision notice is dated 30 September 2013 or earlier;
- where the local planning authority was due to make its decision on 30 September 2013 or earlier but has failed to do so: and
- which are "recovered" for the Secretary of State (rather than one of our Inspectors) to decide (this does not depend on the date of the local planning authority's decision).

Timetable	Interested people	Appellant	Local planning authority
Appeal received We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The grounds of appeal should make up the full case.	Receives the appeal documents
Within 2 weeks from the start date	Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 6 weeks of the start date	Receives a completed questionnaire and any supporting documents from the local planning authority	Sends the appellant and us a completed questionnaire and supporting documents. It writes to interested people about the appeal
Within 6 weeks from the starting date (Only exceptionally will we accept late statements or representations)	Send their representations to us	Sends us their inquiry statement and the statement of common ground that they have agreed with the local planning authority	Sends us its inquiry statement
We set the inquiry date which will normally be within 20 – 22 weeks of the start date			
4 weeks before the inquiry		Sends us their proof of evidence.	Sends us its proof of evidence. It may put a notice in a local paper about the inquiry
At least 2 weeks before the inquiry	Receive details from the local planning authority about the inquiry arrangements	Displays a notice on site giving details of the inquiry	Notifies interested people about the inquiry arrangements
No later than 10 working days before the inquiry		If there is one, sends us the draft planning obligation	

Timetable for the inquiry procedure

This applies to appeals:

- where the local planning authority's decision notice is dated 1 October 2013 or later;
- where the local planning authority was due to make its decision on or after 1 October 2013 but has failed to do so.

It does not apply to appeals:

- which are "recovered" for the Secretary of State (rather than one of our Inspectors) to decide which is proceeding by an inquiry (this does not depend on the date of the local planning authority's decision). See Annexe A.

Timetable	Interested people	Appellant	Local planning authority
Appeal received We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The full statement of case must make up the full case. Also provides a draft statement of common ground	Receives the appeal documents
Within 1 week from the start date	Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 5 weeks of the start date	Receives a completed questionnaire and any supporting documents from the local planning authority	Sends the appellant (or applicant) and us a completed questionnaire and supporting documents. It writes to interested people about the appeal
Within 5 weeks from the start date (Only exceptionally will we accept late statements or representations)	Send their representations to us		Sends us its full statement of case and the agreed statement of common ground
We set the inquiry date which will normally be within 16 weeks of the start date			
4 weeks before the inquiry		Sends us their proof of evidence.	Send us its proof of evidence. It may put a notice in a local paper about the inquiry
At least 2 weeks before the inquiry	Receive details from the local planning authority about the inquiry arrangements	Displays a notice on site giving details of the inquiry	Notifies interested people about the inquiry arrangements
No later than 10 working days before the inquiry		If there is one, sends us the draft planning obligation	