



The Planning Inspectorate

# **Guide to taking part in planning, listed building and conservation area consent appeals proceeding by written representations - England**

3 October 2013

# Guide to taking part in planning, listed building and conservation area consent appeals proceeding by written representations – 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 hearing or inquiry process. You can access all our guides through the Planning Portal:

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

1.3 This guide does not apply to any appeal in connection with a householder application, an application for express consent to display an advertisement or an application for minor commercial (shop front) development that is proceeding by the written representations procedure. For further information please see our “Procedural Guide: Planning appeals – England – 3 October 2013”:

[http://www.planningportal.gov.uk/uploads/pins/procedural\\_guide\\_planning\\_appeals.pdf](http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf)

in particular paragraph 1.5 and Annex C: “Householder, advertisement and minor commercial appeals”.

1.4 **If you need this guide in large print, in audio format or in Braille, please contact our helpline on 0303 444 5000.**

## 2 Who decides an appeal and what are the rules?

2.1 Planning, listed building and conservation area consent 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 planning 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 Appeals made under section 78 of the Town and Country Planning Act 1990 which are proceeding by the written procedure follow:

The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009/452 Part 2 as amended by The Town and Country Planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013 Statutory Instrument 2013/2114

and appeals about listed building or conservation area consent follow the spirit of these regulations.

### **3 How you find out about the appeal**

3.1 After we have accepted the appeal as valid the LPA should notify:

- any person who was notified or consulted about the application; and
- any other person who made representations about the application;

that the appeal has been made.

### **4 The written procedure**

4.1 Most planning appeals are decided by the written representations procedure. With this procedure the Inspector considers written evidence from the appellant, the LPA and anyone else who, like you, has an interest in the appeal. The site is also likely to be visited.

4.2 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.

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 – their grounds of appeal or full statement of case – at the LPA's offices before the deadline for you to make your representations.

5.4 The time limit given in the regulations 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](http://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 I: "Communicating electronically with us" of our "Procedural Guide: Planning appeals – England – 3 October 2013" 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](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. We cannot accept audio or video evidence, as we cannot be sure that everyone involved has exactly the same version or that they have the equipment needed to access the evidence.

8.2 However, you may send a written summary which will be seen by the Inspector, the appellant and the LPA. Please send (3 copies if possible, if not sending electronically) within the 6 week deadline for representations.

## **9 The site visit**

9.1 The Inspector will normally visit the appeal site before a decision is made. If enough of the site can be seen from the road or a public viewpoint, the Inspector will view the site without anyone else being present.

9.2 Sometimes, both the appellant and the LPA's representative will need to be present during the site visit.

9.3 There is normally no need for other people to attend the site visit. However, if you own a property nearby and consider that the appeal site needs to be viewed from your property, you should tell us this when you write to us. If we decide the Inspector might need to see the appeal site from your property we will let you know the date and time of the site visit.

9.4 At the site visit, the Inspector will decide if it is necessary to view the site from your property. If so, the appellant and an LPA representative must come too.

9.5 As everyone concerned has to make their case in writing only, no discussion is allowed about the appeal during a site visit. The Inspector will be there purely to assess the effect of the proposed development on the surroundings. However, the Inspector may ask factual questions to confirm his/her understanding of physical features of the site.

## **10 Application for appeal costs**

10.1 All parties to an appeal are normally expected to meet their own expenses.

10.2 There is a Department for Communities and Local Government Circular 03/09 "Costs awards in appeals and other planning proceedings" and a booklet "Costs awards in planning appeals (England)" that you may wish to read. You can access these at:  
<http://www.planningportal.gov.uk/planning/appeals/guidance/costs>

10.3 It is important that you read these because they explain how, when and on what basis you can make an application or have an application made against you.

10.4 You should also be aware that for appeals received on or after 1 October 2013 costs may be awarded at the initiative of the Inspector.

## **11 The decision**

11.1 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](http://www.planningportal.gov.uk/planning/appeals/online/search)

## **12 Feedback, complaints and challenges**

12.1 We are always looking for ways to improve our performance and we contact a proportion of participants in written representations cases inviting them to give feedback.

12.2 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: [web.complaints@pins.gsi.gov.uk](mailto:web.complaints@pins.gsi.gov.uk)

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

12.3 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 Q "Feedback and complaints" of our "Procedural Guide: Planning appeals – England – 3 October 2013":

[http://www.planningportal.gov.uk/uploads/pins/procedural\\_guide\\_planning\\_appeals.pdf](http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf)

12.4 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.

12.5 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.

12.6 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 L "How can a decision be challenged" of our "Procedural Guide: Planning appeals – England – 3 October 2013":

[http://www.planningportal.gov.uk/uploads/pins/procedural\\_guide\\_planning\\_appeals.pdf](http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf)

## **13 Judicial review**

13.1 If you wish to complain about a decision made by administrative staff during the processing of an appeal you must apply to the Court for permission for a judicial review.

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

13.3 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](http://www.courtservice.gov.uk)

## **14 Contacting us**

14.1 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](mailto:enquiries@planning-inspectorate.gsi.gov.uk)

## **15 Getting help**

15.1 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](mailto:info@planningaid.rtpi.org.uk)  
Website: [www.rtpi.org.uk/planningaid](http://www.rtpi.org.uk/planningaid)

## **16 How we use your personal information**

16.1 If you participate in a planning or 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.

16.2 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](http://www.planningportal.gov.uk/planning/appeals/online/about/privacystatement)

16.3 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 written procedure** 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.

<b>Timetable</b>	<b>Interested people</b>	<b>Appellant</b>	<b>Local planning authority</b>
<b>Appeal received</b>  We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The appeal representations should make up their full case	Receives the appeal documents
<b>Within 2 weeks from the start date</b>	Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 6 weeks from 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
<b>Within 6 weeks from the start date</b>  (Only exceptionally will we accept late representations)	Send their representations to us	Sends us any further representations. These should relate only to issues raised by the questionnaire and any supporting documents	If the local planning authority decides not to treat the questionnaire and supporting documents as its representations it sends us its further representations
<b>Within 9 weeks from the start date</b>		Sends us their final comments on the local planning authority's representations and on any representations from interested people  If there is one, sends us a copy of the certified planning obligation  <b>No new evidence is allowed</b>	Sends us its final comments on the appellant's representations and on any representations from interested people   <b>No new evidence is allowed</b>

## Annexe B

### Timetable for the written procedure 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.

Timetable	Interested people	Appellant	Local planning authority
<p><b>Appeal received</b></p> <p>We set the start date and the timetable</p>		<p>Sends the appeal form with their full statement of case and all supporting documents to us and the local planning authority. The appeal statement of case must make up their full case</p>	<p>Receives the appeal documents</p>
<p><b>Within 1 week from the start date</b></p>	<p>Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 5 weeks from the start date</p>	<p>Receives a completed questionnaire and any supporting documents from the local planning authority</p>	<p>Sends the appellant and us a completed questionnaire and supporting documents. It writes to interested people about the appeal</p>
<p><b>Within 5 weeks from the start date</b></p> <p>(Only exceptionally will we accept late representations)</p>	<p>Send their representations to us</p>		<p>If the local planning authority decides not to treat the questionnaire and supporting documents as its representations it sends us its full statement of case</p>
<p><b>Within 7 weeks from the start date</b></p>		<p>Sends us their final comments on the local planning authority's full statement of case and on any representations from interested people.</p> <p>If there is one, sends us a copy of the certified planning obligation</p> <p><b>No new evidence is allowed</b></p>	<p>Sends us its final comments on any representations from interested people</p> <p><b>No new evidence is allowed</b></p>