



The Planning Inspectorate

# Guide to taking part in enforcement appeals and lawful development certificate appeals proceeding by written representations - England

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# Guide to taking part in enforcement appeals and lawful development certificate 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 enforcement 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 **If you need this guidance 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 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 breaches of planning control.

2.2 For:

- (a) an appeal against an enforcement notice (section 174 of the Town and Country Planning Act 1990);
- (b) an appeal against the refusal or non-determination of an application for a certificate of lawful use or development (section 195 of the Town and Country Planning Act 1990);
- (c) an appeal against a listed building enforcement notice (section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 or an appeal against a conservation area enforcement notice (under that section as applied by section 74(3) of that Act);

the appeal is decided under:

The Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002 - Statutory Instrument 2002/2683.

## 3 How you find out about the appeal

3.1 If there is an appeal the local planning authority (LPA), usually your local council or National Park Authority, should write to everyone who it thinks is affected, to tell them about the appeal.

3.2 This is the minimum publicity requirement. Your LPA may give appeals more publicity and will probably put information on its website.

## 4 The written procedure

4.1 With this method of appeal, 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.

## 5 What you can do

5.1 If you have already contacted the LPA about the site or building it may send us your representations but it does not have to do this. If you want the Inspector to take your views into account you should send us your representations about the appeal.

5.2 You **must** make sure that we receive your representations within 6 weeks of the starting date for the appeal. The LPA should have told you the deadline. There is a timetable for the written representations procedure in the annexe to this guide.

5.3 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 limits, 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.**

5.4 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, for an appeal against an enforcement notice, say either:

- 'I support the LPA in issuing the enforcement notice' 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 appellant in appealing against the enforcement notice' and explain why;

and, for an appeal about an application for a lawful development certificate, say either:

- 'I support the LPA in refusing the application 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 appellant in appealing against the LPA's refusal and explain why.

5.5 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.

5.6 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.

5.7 We will copy your representations to the appellant and to the LPA where they will be available for anyone to see them.

5.8 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.

5.9 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 parties, and they will be seen by the Inspector who may give them less weight as a result.

5.10 If you indicate that you do not want us to copy your representations to the appellant and the LPA, 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 appellant and the LPA 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 reasons for issuing the enforcement notice or in the decision notice in the case of a lawful development certificate appeal.

## **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 For further information please see our "Procedural Guide: Planning appeals and called-in planning applications – England" [http://www.planningportal.gov.uk/uploads/pins/procedural\\_guide\\_planning\\_app\\_eals\\_and\\_call\\_ins.pdf](http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_app_eals_and_call_ins.pdf)

7.4 Although this document does not apply to enforcement or lawful development certificate appeals the information in some of its annexes does apply. Annex H "Communicating electronically with us" does apply and it contains additional guidance about sending documents through the Planning Portal or by email.

## **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 and everything else the inspector needs to see 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 case during a site visit. The Inspector will be there purely to assess the effect of the development on the surroundings.

However, he/she 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)". You can access these at: <http://www.planningportal.gov.uk/planning/appeals/guidance/costs>  
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.

10.3 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 our Procedural Guide, Annexe Q "Feedback and complaints":

[http://www.planningportal.gov.uk/uploads/pins/procedural\\_guide\\_planning\\_appeals\\_and\\_call\\_ins.pdf](http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals_and_call_ins.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 Courts. A challenge can only be made by the appellant, the LPA or other people with a legal interest in the land. If you have a legal interest in the land, to challenge an enforcement decision you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

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

- an error had 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 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 our Procedural Guide, Annexe R "How can a decision be challenged?":  
[http://www.planningportal.gov.uk/uploads/pins/procedural\\_guide\\_planning\\_appeals\\_and\\_call\\_ins.pdf](http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals_and_call_ins.pdf)

12.7 But please note the time limit and the process in relation to enforcement and LDC appeals as given in paragraph 12.4 above, as this is different from the time limit and process for planning appeals which is given in Annexe R.

### **13 Judicial review**

13.1 If you do not have a legal interest in the land and wish to complain about a decision made by administrative staff during the processing of an appeal or the appeal decision you must apply to the Court for permission for a judicial review.

13.2 The application must be made

- if the decision was made before 1 July 2013, promptly and in any event not later than 3 months after the grounds to make the claim first arose; or
- if the decision was made on or after 1 July 2013, 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:  
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 against an enforcement notice, 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

Email: [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 an enforcement appeal or a lawful development certificate 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 and to the LPA. The guidance in this booklet 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

Timetable	Interested people	Appellant	LPA
<p><b>Appeal made</b></p> <p><b>We set the start date and the timetable</b></p>		<p>Sends the appeal form to us and the LPA. The grounds of appeal and supporting facts should make up the full case</p>	<p>Receives the appeal documents</p>
<p><b>Within 2 weeks from the start date</b></p>	<p>Receive the LPA's letter about the appeal telling them that they must send us any representations within 6 weeks from the start date</p>	<p>Receives a completed questionnaire and any supporting documents from the LPA</p>	<p>Sends the appellant and us a questionnaire and supporting documents. It writes to interested people about the appeal</p>
<p><b>Within 6 weeks from the start date</b></p> <p>(We will not normally accept late representations)</p>	<p>Send their representations to us.</p>	<p>Sends us any further representations</p>	<p>If the LPA decides not to treat the questionnaire and supporting documents as its representations it sends us its written representations</p>
<p><b>Within 9 weeks from the start date</b></p>		<p>Sends us their final comments on the LPA's representations and on any representations from interested people</p> <p><b>No new evidence is allowed</b></p>	<p>Sends us its final comments any further representations from the appellant and on any representations from interested people</p> <p><b>No new evidence is allowed</b></p>