



The Planning Inspectorate

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

3 October 2013

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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 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 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 For:

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

the hearing is held under:

The Town and Country Planning (Hearings Procedure) (England) Rules 2000/1626 (as amended).

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 hearing it should let you know when and where it will take place.

3.2 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 hearing in a local newspaper if it thinks it is necessary.

4 The hearing 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.

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 given in the rules 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 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

8 Audio/video evidence

8.1 We will return any audio/video evidence sent to us in advance of the hearing. You may send a written summary which will be seen by the Inspector, and the main parties. 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 hearing if he or she is willing to accept the audio/video evidence and allow it to be played at the hearing.

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 hearing 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 main parties. Our Case Officer will be able to tell you how many copies you will need to provide.

9 Before the hearing

9.1 Local people are encouraged to take part in the hearing 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. It should be available at the LPA's offices.

9.3 Before going to the hearing, 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 hearing to help you decide whether your position can be satisfactorily represented by them.

9.5 Hearings 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 hearing, 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.

10 Hearing venue

10.1 We ask the LPA to arrange the hearing venue. Hearings are usually held in LPA offices, village halls or community centres. We have set out the facilities that a hearing 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 hearings in buildings with proper facilities for people with disabilities. If you, or anyone you know, want to go to the hearing and you have particular needs, please contact the LPA to confirm that it can make proper arrangements.

12 Openness and transparency

12.1 Hearings 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 hearing?

13.1 The hearing is an inquisitorial process led by the Inspector who identifies the issues for discussion based on the evidence received and any representations made.

13.2 The Inspector will open the hearing by explaining what the appeal is about. He or she will then go through some routine points and explain how he or she intends to proceed and will ask who wants to speak.

13.3 The order in which people speak at a hearing on any topic that needs to be discussed will be tailored to the individual appeal and who is at the hearing. The Inspector will usually outline the main issues and any other matters to be discussed. The Inspector will ensure that the hearing is orderly so everyone involved can have a fair hearing.

13.4 The appellant will usually give his or her views on a topic first, followed by the LPA, and then anyone else who wants to comment.

13.5 The Inspector will make it clear that there is no need to repeat comments you have already made in your earlier representations (to the LPA or to us) or points which have been covered by other participants.

13.6 If you make comments, or have any questions, you must put them through the Inspector.

14 Inspector's questions

14.1 At any stage during proceedings the Inspector may ask questions. Questions may be put to all those who give evidence, including interested people.

15 Discussion of planning conditions

15.1 A hearing 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.

16 Closing statements

16.1 Finally (so far as dealing with evidence about the case is concerned) there are closing statements which are an opportunity for the main 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.

17 Application for appeal costs

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

17.2 There is a Department for Communities and Local Government Circular 03/09 "Costs awards in appeals and other planning proceeding" and a booklet "Costs award 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. 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.

17.3 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.

18 Site visit

18.1 Once any claim for costs has been heard the Inspector will make arrangements for the site visit (unless that has already taken place during the hearing). The Inspector will make it clear if:

- it would be helpful to carry on the discussion on the site and so will not close the hearing until after the site visit; or
- it appears that all discussion has been completed and the hearing will be closed before going to the site. In this circumstance there will be no further discussion of the merits of the case at the site.

19 The decision

19.1 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

20 Feedback, complaints and challenges

20.1 We are always looking at ways to improve our performance and at some hearings participants may be asked to complete a feedback form.

20.2 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

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

20.3 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

20.4 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.

20.5 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.

20.6 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 Annex 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

21 Judicial review

21.1 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.

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

21.3 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

22 Contacting us

22.1 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

23 Getting help

23.1 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
Email: info@planningaid.rtpi.org.uk
Website: www.rtpi.org.uk/planningaid

24 How we use your personal information

24.1 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.

24.2 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 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

24.3 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 hearing 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.

Timetable	Interested people	Appellant	Local planning authority
<p>Appeal received</p> <p>We set the start date and the timetable</p>		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
<p>Within 2 weeks from the start date</p>	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
<p>Within 6 weeks from the starting date (Only exceptionally will we accept late statements or representations)</p>	Send their representations to us	Sends us their hearing statement	Sends us its hearing statement
<p>We set the hearing date which will normally be within 12 weeks of the start date – or the earliest date after that period which is practicable</p>			
<p>At least 2 weeks before the date of the hearing</p>	Receive details from the local planning authority about the hearing arrangements		Tells interested people about the hearing arrangements and may put a notice in a local paper about the hearing
<p>No later than 10 working days before the hearing</p>		If there is one, sends us the draft planning obligation	

Timetable for the hearing 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.

Timetable	Interested people	Appellant	Local planning authority
<p>Appeal received</p> <p>We set the start date and the timetable</p>		Sends the appeal form, the full statement of case, all supporting documents and the draft statement of common ground to us and the local planning authority. The statement of case must make up the full case	Receives the appeal documents
<p>Within 1 week from the start date</p>	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 and us a completed questionnaire and supporting documents. It writes to interested people about the appeal
<p>Within 5 weeks from the start date (Only exceptionally will we accept late statements or representations)</p>	Send their representations to us		Sends us its full statement of case and the agreed statement of common ground
<p>We confirm the hearing date which will normally be within 10 weeks of the start date – or the earliest date after that period which is practicable</p>			
<p>At least 2 weeks before the date of the hearing</p>	Receive details from the local planning authority about the hearing arrangements		Tells interested people about the hearing arrangements and may put a notice in a local paper about the hearing
<p>No later than 10 working days before the hearing</p>		If there is one, sends us the draft planning obligation	