

Planning Support Note 4: Appeals

An appeal to the Secretary of State (SoS) via the Planning Inspectorate is made when;

- The applicant is dissatisfied with the decision to refuse planning permission; or
- The applicant is dissatisfied with one or more of the conditions imposed on the permission; or
- The planning authority has failed to issue a decision within the time period allowed.

In such cases the Planning Inspectorate will appoint an Inspector to either decide the case or make a recommendation to the Secretary of State (SoS) who will then make the final decision. The SoS always makes the final decision on applications with regional or national significance.

There are three types of Appeal:

1. **Written Representations** for small straightforward applications. Submitted evidence is considered by an Inspector without a formal meeting;
2. **Informal Hearing** where the application is more complex or there is significant local opposition to the proposal. Evidence is presented to an Inspector in a round table discussion with no legal representation present;
3. **Public Inquiries** deal with major applications that are complex involving contradictory evidence. They are heard by an Inspector and witnesses are cross-examined by opposing legal representatives.

If you have already commented on the application then the planning authority should inform you that an Appeal has been lodged and which form it will take.

The Inspector will receive a copy of all the written representations that were submitted to the planning authority as part of the application process. You may feel it is not necessary to make any further comment.

However, if you do submit further evidence this should be done within six weeks of the dated letter informing you of the Appeal. If it is submitted late it will not be accepted. You must send three copies of your evidence to the Inspectorate, who will forward a copy to the appellant, with another going to the planning authority.

Informal hearing: The planning authority will send you a letter saying when and where it will occur. Before attending, make sure you look at all the evidence that has been submitted, particularly that by the appellant and the planning authority, which will be available at the authority's offices. Hearings only last for one day and the Inspector will ask if anyone wishes to speak.

The appellant gives their case first, followed by the planning authority and then third parties. The hearing will end with a site visit which people who were at the hearing can attend, but remember that during the visit you can only raise issues that were heard at the hearing and not raise new matters.

Public inquiry: The planning authority write to tell you when and where it will happen. There are main ways to submit evidence:

1. Send a letter.
2. Ask to speak at the inquiry. You will not be able to ask questions of the other parties but you may be cross-examined.
3. Become a 'Rule 6' party. This option is very time consuming and involves strict schedules and deadlines. The main benefit is that you receive all the evidence before the inquiry begins, plus you can represent yourself, cross-examine the other parties, as well as give evidence-in-chief calling witnesses to support your case.

Most people appear at an inquiry as members of the public rather than having 'Rule 6' status. Nevertheless, there are things to remember:

- It is best to read out a written statement that picks out the key elements of your objection.
- If you are part of an organisation, then decide who would be best at presenting the evidence and answering questions during cross-examination. This could be someone other than you.
- If you are working with other groups it is good practice not to repeat the same evidence but rather split it between you according to the issue, expertise and knowledge of each party. You should each make it clear that you do support everything each other says.
- It is important that you are there at the start of the Inquiry as the Inspector will run through the programme and ask who would like to speak at the Inquiry.

Procedure: The appellant presents their case first and is cross-examined by the planning authority's legal representative and then by third parties. The planning authority then makes their own case and is cross examined in the same way.

Third parties then read out their statements. Afterwards they may be asked questions by the appellant's legal representative. The Inspector will not let the latter ask hostile or unfair questions. The inquiry may last a number of days. It will end with a site visit, which those submitting evidence to the inquiry can attend. However, you can only speak to the Inspector when pointing out issues that were raised during the inquiry.

Decision: The Inspector should make a decision within five weeks for a written representation appeal, and seven weeks for those dealt with by informal hearing or public inquiry. Complex inquiries, or those decided by the Secretary of State, can take much longer to determine. Copies of the decision are sent to the appellant, planning authority and those third parties who had previously requested a copy.

Recovered Appeals: If a case raises particular issues that justify a Ministerial Decision, the SoS can 'recover' the appeal from the Planning Inspectorate for his own determination. In these cases a planning

inspector will consider the issues before submitting a report and recommendation to the SoS - who will then make the final decision.

Call-in: Under 'call-in' powers the SoS also has the power to take over particular planning applications rather than letting the local planning authority decide.

An application can be called-in irrespective of whether there has been a request to do so.

The SoS uses these powers sparingly and it is usually in cases where planning issues of more than local importance are involved. In call-in cases a planning inspector is appointed to hold an inquiry and then report with recommendations to the SoS who will make a decision.

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