

## Criteria for Determining the Procedure for Enforcement Appeals

### *Written representations*

If your appeal meets the following criteria, the most appropriate procedure would be written representations: -

1. the grounds of appeal and issues raised can be clearly understood from the appeal documents plus a site inspection and do not include a ground (d) appeal; and/or
2. the Inspector should not need to test the evidence by questioning or to clarify any other matters; and/or
3. an environmental impact assessment (EIA) is either not required or the EIA is not in dispute; and/or
4. the alleged breach and the requirements of the notice are clear and there are no complex legal issues.

### *Hearing*

If the criteria for written representations are not met because questions need to be asked, for example where any of the following apply: -

- the status of the appellant is at issue, eg Gypsy/Traveller;
- the need for the proposal is at issue eg agricultural worker's dwelling; Gypsy/Traveller site
- the personal circumstances of the appellant are at issue, eg; people with disabilities or other special needs;

the most appropriate procedure would be a hearing if: -

1. there is no need for evidence to be tested by formal cross-examination; and
2. the grounds of appeal, the allegation and the requirement of the notice are straightforward (and do not require legal or other submissions to be made) and you should be able to present your own case (although you can choose to be represented if you wish); and
3. your case and that of the LPA and interested persons is unlikely to take more than one day to be heard.

### *Inquiry*

If the criteria for written representations and hearings are not met because the evidence needs to be tested and/or questions need to be asked, as above, the most appropriate procedure would be a local inquiry if: -

1. the issues are complex and likely to need evidence to be given by expert witnesses; and/or
2. you are likely to need to be represented by an advocate, such as a lawyer or other professional expert because material facts and/or matters of expert opinion are in dispute and formal cross-examination of witnesses is required; and/or

3. legal submissions may need to be made or evidence needs to be heard under oath (e.g. where a witness is giving factual evidence about how long the alleged unauthorised use has been taking place); and/or
4. the alleged breach or the requirements of the notice are unusual and particularly contentious.

NOTE: Where proposals are controversial and have generated significant local interest they may not be suitable for the written representation procedure. We consider that the LPA is in the best position to indicate that a hearing or inquiry may be required in such circumstances.