



The Planning
Inspectorate

Guide to taking part in enforcement appeals proceeding by an inquiry - England



INVESTOR IN PEOPLE

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Guide to taking part in enforcement appeals proceeding by an inquiry – England

Please note – there are separate booklets for enforcement appeals that are proceeding by the written representations or hearing process. You can access all our booklets through the Planning Portal at www.planningportal.gov.uk or you can contact us and we will send you a copy.

If you need this guidance in large print, in audio format or in Braille, please contact our helpline on 0117 372 6372.

When does a local planning authority (LPA) serve an enforcement notice?

The LPA are responsible for planning control in your area. If someone builds something or carries out a change of use without getting planning permission from the LPA they may be breaking planning control rules. If they already have planning permission but have not complied with the conditions attached to it, they are also breaking planning control rules.

It is not an offence to break planning control rules. But if your LPA decide that the building or use is not acceptable, they may decide to issue an enforcement notice. Non compliance with a notice can lead to a prosecution.

When the LPA issue a notice they must give good reasons and provide a clear idea of what needs to be done to put things right. For example, an enforcement notice might tell someone to remove a building, stop a use, make the building or use acceptable, or meet the conditions of their planning permission.

If you are interested in what is happening on a site (whether you are for or against it) you almost certainly will be interested in the outcome of any appeal. This guide explains how you can make your views known.

When does an enforcement notice come into force?

The date an enforcement notice comes into force is called “the effective date”. The effective date of an enforcement notice will be a minimum of 28 days after the date it is issued. The effective date will be given on the notice.

What happens if no one appeals against the enforcement notice?

If no-one appeals against the enforcement notice before the effective date, the notice will apply from that date.

The enforcement notice sets out what must be done to meet the planning control rules. If the person the notice is served on does not obey within the time limit given, they may be committing an offence. And if the LPA decide to prosecute them, they may have to pay a fine.

Also the notice will be recorded in the relevant planning register and will show in any ‘searches’ carried out if the land or building is sold.

Who can appeal?

Anyone with an interest in the land may appeal, whether or not they have been served with a copy of the enforcement notice. This normally means the owner, tenant or leaseholder. A mortgage company or other lender can also have an interest. Nobody else can appeal against a notice, but they can make their views known about an appeal. An appeal must be made **before** the effective date of the enforcement notice.

Who decides an appeal?

Appeals are made to the Planning Inspectorate. 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.

How you find out about the appeal

If your LPA have served a notice and there is an appeal against it, they will write to everyone who lives in nearby property and others who they think are affected, to tell them about the appeal.

The appellant must display details of the inquiry, including the time and place, on the site two weeks before the inquiry.

These are the minimum publicity requirements. Your LPA may give appeals more publicity.

If you have already written to the LPA about the site or building: -

- they will normally write to tell you about the appeal within two weeks of us accepting it; and
- when the arrangements have been made for the inquiry they will normally let you know when and where it will take place.

They may also publish details of the inquiry in a local newspaper if they think it is necessary.

What you can do

If you have already contacted the LPA about the site or building they may send us your comments. But they do not have to do this. If you want the Inspector to take your views into account you should send us your comments.

You can submit your comments on line through the Planning Portal using the Planning Casework Service, www.planningportal.gov.uk/pcs or you can write or email to us. The LPA should have told you our Case Officer's contact details.

If you send us your comments in a letter, if possible, please send us three copies of it. Please note that we do not acknowledge receipt.

If you want to make written comments, you **must** make sure that we receive your comments within six weeks of the starting date for the appeal. The LPA should have told you the deadline.

We will send copies of your comments to the appellant, the LPA and the Inspector.

The time limits for sending comments to us are important, and everyone taking part in an appeal must follow them. **If you send us comments 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 take them into account.** However you may attend and ask to speak at the inquiry - see the paragraph below called "What happens at the inquiry?".

People with disabilities

We want to hold all inquiries in buildings with proper facilities for people with disabilities. The LPA usually choose and provide the place. If you, or anyone you know, want to go to the inquiry and you have particular needs, please contact the LPA to confirm that they can make proper arrangements.

Before the inquiry

Before going to the inquiry, if you want to see what the appellant and the LPA have written, you should be able to see copies of their appeal documents at the LPA's offices.

If you want to take part in an inquiry, you need to think about what you want to say and how you want to say it. Most 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. (The Inspector is likely to suggest this approach when opening the inquiry.) Repeating arguments at the inquiry does not help the Inspector, or make the point more relevant.

Inquiries 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. Local people are encouraged to take part in the inquiry process. Local knowledge and opinion can often be a valuable addition to the more formal evidence given by the appellant and the LPA.

If you want to take a leading role in the inquiry and call your own witnesses, you should contact us at the earliest possible stage. 'Rule 6' status may be given to certain parties, at our discretion, but is usually only requested by major third parties for large or complex appeals. A group of individual interested parties may appoint one agent or solicitor to represent them all and the agent/solicitor may make a request for 'Rule 6' status. If we agree to this, we will ask your agent/solicitor to provide a statement of your case and details of any documents they will produce at the inquiry. If we ask for this information, and you provide it, we will arrange for copies of the appellant's and LPA's statements to be sent to you.

What happens at the inquiry?

Inquiries are usually held in LPA offices, village halls or community centres.

An inquiry is the most formal of the appeal procedures, because it usually involves larger or more complicated appeals. These are often cases where expert evidence is presented, and witnesses are cross-examined (questioned). An inquiry may last for several days, or even weeks. It is not a court of law, but the proceedings will often seem to be quite similar and the appellant and the LPA usually have legal representatives.

If you want to speak at the inquiry, it is important that you are there when it opens because this is when the Inspector will tell everyone about the timetable.

At the inquiry opening, the Inspector will go through some routine matters, including asking who will be taking part in the inquiry. This is often called 'taking the appearances'. When the appellant and the LPA have given their details, the Inspector will ask if anyone else wants to speak. At this stage, you should only give your name and address, and say whether you are for or against the appeal.

The Inspector will then usually give an outline of what will happen at the inquiry. At a long inquiry, it is difficult to predict at what stage of the inquiry interested people will be given the chance to speak. If you cannot stay at the inquiry all the time, tell the Inspector at this stage. The Inspector will understand and will try to help by hearing your comments at a different stage of the inquiry, if that is possible. However, if you wish to ask one of the main parties questions you will probably need to arrange to be at the inquiry when they are giving their evidence.

The appellant will usually be asked to make a brief opening statement first, to set the scene. The LPA will then make their opening statement. Their witnesses will then give their evidence and the appellant can cross-examine (question) them. After that the Inspector will normally ask if anyone who supports the appeal has any questions to put to the witness.

The appellant will then call their witnesses, and the LPA can cross-examine (question) them. After that the Inspector will normally ask if anyone who opposes the appeal has any questions to put to the witness.

You must make sure that your questions are relevant to the evidence the witnesses have given. You should not repeat questions that have already been asked. This is not the point when you give your views – that is later.

Giving your views at the inquiry

When the cases for the main parties have been completed, at the Inspector's discretion anyone who is interested in the appeal usually has the chance to speak and present their own case.

The Inspector will usually ask if you are willing to answer questions about your evidence. You do not have to do this, though it is often helpful to do so and it may add weight to your evidence. Do not feel intimidated. The Inspector will not let anyone ask you hostile or unfair questions. If you oppose the appeal the

appellant's representative may ask you questions. If you support it, the LPA's representative may ask you questions.

The end of the inquiry

The inquiry ends with closing speeches by those who have spoken at the inquiry, followed by the LPA and finally the appellant. This is normally followed by the Inspector visiting the appeal site. Because the inquiry is over, there can be no further discussion about the case during that visit.

Audio/video evidence

At the discretion of the Inspector, audio/video evidence may be played at the inquiry. If you intend to submit this type of evidence please let our Case Officer know. It will be your responsibility to find out from the LPA if there are suitable facilities at the venue or, if the LPA agree, whether you will have to provide your own. Any evidence played at the inquiry must be able to be seen and/or heard by everyone at the inquiry. The recording will become part of the inquiry evidence and will be retained by the Inspector.

The decision

When made, the decision will be published on the Planning Portal and can be viewed at www.planningportal.gov.uk/pcs.

At the end of the inquiry the Inspector will give an indication of when the decision is likely to be issued.

Awarding appeal costs

At the inquiry the Inspector will say that any application for costs should be made before the end of the proceedings. This can happen when one side claims it has been caused unnecessary expense in dealing with the proceedings, because of the other side's unreasonable behaviour.

This is unlikely to apply to you because if you choose to take part in an appeal you do so at your own expense.

There is a booklet "Costs awards in Planning Appeals" that you may wish to read. You can access this guide at www.planningportal.gov.uk/pcs or you can contact us and we will send you a copy.

Complaints

If you have any complaints or 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
4/11 Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Phone: 0117 372 8252

Fax: 0117 372 8139

Website: www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback

We will investigate your complaint and you can expect a full reply within three weeks. However, we cannot reconsider an appeal if a decision has already been given on it. This can only happen if the decision is successfully challenged in the High Court.

The High Court

An appeal decision can only be challenged on legal grounds in the High Court. To be successful, you would have to show that:

- the Inspector, had gone beyond his or her powers; or
- we did not follow the proper procedures and so damaged your interests.

If your challenge is successful, the High Court will overturn the original decision and return the case to us, and we will look at it again. This does not necessarily mean that the original decision will be reversed.

If you decide to challenge the decision, you must apply to the High Court within six weeks of the date of the decision. Our leaflet, "Challenging the Decision in the High Court" explains your right to challenge the decision and is available on the Planning Portal at www.planningportal.gov.uk/planning/appeals/planninginspectorate/feedback/leaflets. Alternatively, you can contact us and we will send you a copy.

Timetable for the inquiry procedure

Timetable	You	Appellant	LPA
<p>Appeal made</p> <p>We set the start date</p>	(Does not apply)	Sends the appeal form to us and the LPA. The grounds of appeal and supporting facts should make up the full case	Receive the appeal documents
<p>Within 2 weeks from the start date</p>	Receive the LPA's letter about the appeal telling you that you must send us any comments within 6 weeks from the start date	Receives a completed questionnaire and any supporting documents from the LPA	Send the appellant and us a completed questionnaire and supporting documents. They write to you about the appeal
<p>Within 6 weeks from the start date</p> <p>(We will not normally accept late statements or comments)</p>	Send your comments to us	Sends us their inquiry statement	Send us their inquiry statement
<p>Within 9 weeks from the start date.</p> <p>(We will not normally accept late statements or comments)</p>	Cannot make more written comments at this stage	Sends us their final comments on the LPA's statement and on any comments from interested people. No new evidence is allowed	Send us their final comments on the appellant's statement and on any comments from interested people. No new evidence is allowed
<p>4 weeks before the inquiry</p>	Receive details from the LPA about the inquiry arrangements	Sends us their proof of evidence and the statement of common ground they have agreed with the LPA	Send their proof of evidence. They may put a notice in a local paper about the inquiry
<p>At least 2 weeks before the inquiry</p>		Displays a notice on site giving details of the inquiry	

What is considered?

Sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations

The purpose of planning is to ensure that decisions about development take into account the public interest. It does not exist to protect the purely private interests of one person against the activities of another. Neither is it intended to deal with matters covered by other legislation eg. boundary disputes - which are covered by property law.

Planning issues can be wide-ranging, for example including the need to reduce travel by private car, promote the development of renewable energy resources, and take climate change impacts into account in the location and design of development.

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.

If we consider your comments contain libellous, racist or abusive comments, we will send them back to you before the Inspector or anyone else sees it. If you take out the libellous, racist or abusive comments, you can send your comments back to us. But, you must send them back before the time limit ends.

Template for sending your comments

We recommend that you use this layout when sending us your comments about an appeal. Unless your handwriting is very clear it would help if you are able to have your comments typed. Please use **black** ink.

1. Your name and address.
2. The Planning Inspectorate appeal reference number (this will start APP/...)
3. The address of the appeal site.
4. 'I support the LPA in issuing the enforcement notice' or 'I support the appellant in appealing against the enforcement notice'.
5. Your comments. If you support the LPA and are against the appellant's appeal, say whether it is for the same reasons as given by the LPA or, if not, explain your own reasons. Or say why you support the appellant's appeal.

If you decide to submit documents to support your comments

Documents in a sans serif font are easier to read. Please use a font such as Arial or Verdana in a size of 11 point or larger.

Please

- use **A4** paper wherever possible;
- number the pages of the documents;
- make sure photocopied documents are clear and legible;

- put any photographs (colour if possible), maps, plans, etc, in a **separate appendix** and cross-reference them within the main body of the document;
- bind documents so that they can be undone quickly without damaging the document. Do not use wire or plastic spiral binders;
- do not use cover sheets, sleeves or other bindings that do not add value or information;
- do not send original documents unless we specifically ask for them;
- do not include self adhesive notes or small attachments which might be dislodged easily or lost;
- 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, orientation and paper size of any maps and plans are shown clearly. This is especially important if you submit your comments electronically through the Planning Casework Service.

How we use your personal information

In processing an appeal, the Planning Inspectorate may receive personal data from several parties including the appellant, the LPA and other statutory and interested parties. The type of personal information we receive includes names and contact details of those making representations.

You should only provide personal information about yourself - or indeed any comments - that you are happy to be placed in the public domain. You should only provide information about others, including family members, if you have their consent.

We will circulate copies of documents received to the appellant, the LPA and statutory appeal parties. The appeal papers will also be open for inspection at the LPA's office where anyone can view them. We will not normally refuse requests to inspect the appeal documents.

In addition, where the appeal is one which we make available on our Planning Casework Service (for further details see www.planningportal.gov.uk/pcs) copies of appeal documents may be made accessible over the internet during the appeal. This may include your name and address, but we will remove telephone numbers, email addresses and signatures. The Inspector's decision may contain some personal information, such as the name of the appellant or interested party, and will be made available on the internet or on request.

We do not accept anonymous representations, but you may ask for your name and address to be withheld. Your representation will be made available to parties (including the Inspector) with your name and address removed, and may be given less weight as a result.

We may also use your personal information to contact you and seek views on the service that you received. In doing so, we may provide your contact information to a third party for the sole purpose of conducting a survey on our behalf. Although the results of the survey may be published, information that you provide

will be made anonymous unless you have otherwise been notified and provided your explicit consent.

Further information

Further information about our privacy policy is available on the Planning Portal at www.planningportal.gov.uk/planning/appeals/online/about/privacystatement or on request. If you have any queries about our policy, or wish to request your personal data, then please contact our Data Manager at the address below.

Contacting us

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Helpline: 0117 372 6372

E-mail: enquiries@planning-inspectorate.gsi.gov.uk

Getting help

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. You can contact:

National Planning Aid
Royal Town Planning Institute
6th Floor
Newwater House
11 Newhall Street
Birmingham
B3 3NY

Phone or fax: 0121 214 2900

E-mail: info@planningaid.rtpi.org.uk

Website: www.rtpi.org.uk