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PLANNING INQUIRIES THE BASICS



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Overview

- When and why does a planning inquiry occur
- Key stages in the lead up to an inquiry
- Statements of Common Ground, conditions and s.106
- Procedure at the inquiry and roundtable sessions
- Tips for giving evidence
- Costs
- Attending inquiries using video conferencing software

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Types of Appeal

- Section 78 appeal – refusal of planning permission
- Similar to appeal against non-determination
- Other forms of appeal include:
 - [Advertisement consent](#)
 - [Community Infrastructure Levy](#)
 - [Enforcement](#)
 - [Hazardous substances consent](#)
 - [Lawful development certificates](#)
 - [Listed building consent](#)
 - [Listed building enforcement notices](#)
 - [Planning obligations and affordable housing requirements](#)
 - [Prior approval for permitted development, including the neighbours' consultation scheme](#)
 - [Tree Preservation Orders](#)
 - [Non-validation of planning applications](#)

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Why a Planning Inquiry

Inquiry (non-enforcement)

- Evidence needs to be tested by an advocate
- Complex issues
- Appeal generates substantial local interest

Hearing

- Inspector able to test evidence
- Status or personal circumstances of appellant are at issue
- Some local interest
- Parties can present case without advocate

Written Representations

- Issues can be understood from documents and a site visit
- Issues not complex and evidence does not need to be tested

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'Stages' in the run-up to a Planning Inquiry

Not cover:

- "recovered" appeals
- Where an enforcement notice has been served for the same/v similar development and a shorter time limit for appealing (28 days) applies – see PINS guide para 2.4.3
- Appeals where PINS have determined that the appeal is not suitable for written reps and that an Inquiry is necessary

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If in doubt, check the PINS guidance!

Planning:

<https://www.gov.uk/government/publications/planning-appeals-procedural-guide>

Enforcement:

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

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1 – Submitting the appeal

- Usually within 6 months of date of notice of LPA's decision
- If Inquiry wanted must give at least 10 days notice prior to appeal (template provided online: <https://www.gov.uk/government/publications/notification-of-intention-to-submit-an-appeal>)
- Include:
 - (1) Copy of the planning app form
 - (2) LPA's decision notice
 - (3) Appellant's full statement of case
 - (4) Draft statement of common ground
 - (5) Any other essential supporting documents



Nb. can add to information supplied to LPA, but *“There is no opportunity to add to the statement during the process so the appellant should only make their appeal when they are certain that they have finalised their case.”* F3.6

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2 - Appeal Received

- Appeal is validated
- PINS sets the “start date” and timetable
- Inquiry date - should occur 14 weeks from the start date although flexibility within 13-16 weeks.



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3 – LPA sends questionnaire and supporting docs

Within 1 week of the “start date”

- The questionnaire indicates the LPA’s preferred procedure
- If suggesting an inquiry, then indicates:
 - the expected number of witnesses
 - topics to be addressed by witnesses
 - time estimates
 - whether there will be legal representation
- LPA also needs to notify interested people about the appeal (model notification letter [online](#))

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4 – LPA Statement of Case, SoCG and IP reps

5 weeks after the start date

- Interested Parties to send any further reps
- If any Rule 6 party – can be required to submit SoC, within 4 weeks of confirming R6 status
- LPA to send full statement of case and agreed statement of common ground

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Statement of Common Ground

- SoCG pro forma and guidance available [online](#)
- Matters of agreement and disagreement
- Include agreed conditions
- Core documents list



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5 – Case Management Conference

Within 7 weeks of start date

- Shift towards CMC by phone (large inquiries – pre-inquiry meeting)
- All parties to inquiry, including R6
- Pre-conference note sent out in advance – sets out main issues and anything to address
- Post-conference note follows up within 5 working days setting out the Inspector's decisions on how things will run



Matters discussed determined by Inspector but include...

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5 – Case Management Conference

- a preliminary identification of the main issues;
- whether a topic- by- topic approach is appropriate re evidence;
- Whether any evidence could be dealt with in a round table discussion or via written representations;
- agreement on further matters through position statements, topic papers or updated statements of common ground.

(i.e. how have things moved on (if at all...))



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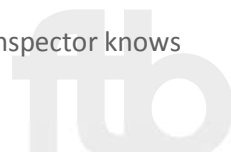


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6 – Proofs of Evidence

4 weeks before the inquiry

- Document containing written evidence
- If over 1,500 words, should be accompanied by a summary
- Presents evidence (including previous evidence) in a useful way for the Inquiry;
- Gives professional opinions on evidence provided by other parties in their statements of case
- Be concise and to the point (but do not assume the Inspector knows what's in your head!)



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6 – Proofs of Evidence

Do's

- PAGE/PARA Nos.
- Clearly cross-referenced to other documents
- Cover key issues remaining in dispute
- Consider (and avoid) overlaps between different witnesses same team

Don't-s

- Cover new evidence (unless exceptional)
- Not repeat/quote policy (only policy name/paras)
- Not include irrelevant biographical details



7 – Final Steps..

- Inquiry arrangements made by LPA sent to all parties at least 2 weeks before inquiry
- Draft planning obligation sent no later than 10 days before inquiry, if there is one



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What happens at inquiry

- Inspector's introduction
- Opening submissions
- Local residents representations
- The Council's case
 - XIC (other disciplines first, normally planning last)
 - XX
- The Appellant's case
 - XIC
 - XX
- Conditions/106 session
- Closing submissions

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Giving Evidence – written and oral

- Be prepared; be clear; be trusted
- Primary duty is to the inspector, not your client
- Proof of evidence: clear, focused, structured, consistent, include summary and references to core documents
- XIC – revise / update proof, respond to points raised by the other side, expand on proof
- XX – anticipate questions in your preparation, address the Inspector, listen carefully, think before you speak, be fair, qualify your answers where appropriate, stay calm!

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Round Table Sessions

- Increasingly common for particular topics
- Indicate initial view in Statement of Case
- Inspector decides, usually pre-inquiry
- Used where formal cross-examination not necessary
- Examples: 5YHLS, design and townscape, heritage
- Led by Inspector in discussion with expert witnesses directly

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Tips for Round Table Sessions

- Preparation crucial
- Create a 'route map'
- Identify points for concession and points to draw out
- Anticipate points for rebuttal
- Consider in advance what you will say at the session
- Be ready to move the discussion on where necessary
- Assertiveness
- Keep a good note for closing!

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Costs

- Starting point: parties bear their own costs
- However... “Where a party has behaved **unreasonably**, and this has directly caused another party to **incur unnecessary or wasted expense in the appeal process**, they may be subject to an award of costs.” (NB/ not the application process).
- “Unreasonable” is given its ordinary meaning, (*Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774): substantive or procedural
- Application for costs: partly or in full
- Can be made by (and against) any party, including R6 (and can even be awarded on the initiative of the Inspector!)
- App to be made before inquiry closes

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Inquiries using remote video conferencing software

Factors to consider

- Team assembled or separate?
- The “venue”
- Document sharing
- Timings
- Blended approach?

Top tips

- Keep an eye on the expressions / body language of the tribunal
- Practice with the software if you can
- Keep checking whether your mic and video are on!

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Useful resources

- Town and Country Planning (Inquiries Procedure) (England) Rules 2000
- PINS Procedural Guides
 - <https://www.gov.uk/government/publications/planning-appeals-procedural-guide>
 - <https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>
- <https://www.pinsentmasons.com/out-law/analysis/how-to-engage-uk-virtual-planning-inquiries>
- <https://www.youtube.com/watch?v=ey9TAdpUdEw>

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Questions?

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