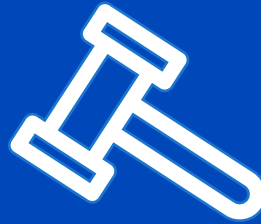


town planning

The Basics



APPEALS



INTRODUCTION

The booklet covers some of the basics relating to the English planning appeal system. In general, there is a right to appeal available against conditions attached to an approved application, a refused application or an application which has not been determined within the statutory time period. This booklet does not cover all aspects in depth, further information can be found on the [Planning Inspectorate website](http://www.planninginspectorate.gov.uk).

A series of Town Planning “The Basics” booklets have been produced to assist non-planners with the dark art of Town Planning, these can be downloaded via www.planninghouse.co.uk

Who are Planning House?

Planning House is an independent town planning consultancy which offers a professional & knowledgeable service to meet client needs, we embrace a pragmatic approach by providing realistic and tailored town planning advice.

Headed by Chris Pipe who is a Gamekeeper turned poacher. As former Head of Planning for a Local Authority she knows how to navigate the planning system efficiently and effectively.



WHAT IS A **PLANNING APPEAL?**

The most common appeal is against the refusal of planning permission – if your planning application is refused, you can appeal against the decision if you disagree with it. You can also appeal against any conditions that have been imposed on a planning permission, conditions can only be imposed if there are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.

If the local planning authority has failed to make a decision within a specified timeframe (usually 8 or 13 weeks depending upon the type of application), you can appeal against non-determination of that application.

It is also possible to appeal against other planning decisions, such as listed building consent, enforcement notice, lawful development certificate and tree preservation order etc. This booklet focuses on the more common planning appeal against a refusal.



Most appeals are determined by a Planning Inspector who is allocated appeals on a case by case basis.

Inspectors are part of the Planning Inspectorate who deal with planning appeals, national infrastructure planning applications, examinations of local plans and other planning-related and specialist casework in England and Wales.

A small percentage of appeals are dealt with by the Secretary of State whoever these tend to be contentious or very large schemes.

WHO MAKES THE DECISION?





PLANNING AN APPEAL

'If in doubt, kick it out' you may not have heard the saying but some Councils do adopt this approach in terms of dealing with planning applications. If your application is refused know your options.

If you are refused planning permission you are entitled to appeal to the Planning Inspectorate, an impartial government body independent of your local Council.

Whilst planning appeals are free to submit, they cause delays, are time consuming and could incur additional costs. Engage with your local planning authority regarding alternative development to potentially avoid a planning appeal. Could your plans be amended to something which the Council (and you) would be happy with, if so this could save a lot of time and uncertainty.

BE PREPARED

If you do embark on a planning appeal, be aware of what evidence you and the Council have to support both sides of the argument.

Planning policies relevant to your site will be critical when forming your planning case for an appeal, so make sure you know how they relate to your site.

Every planning refusal should have an officer's report (Committee or Delegated) which outlines the proposal, planning policies and material planning considerations associated with your proposal. These are generally part of the Council's online planning application. Reading the officer's report will help you focus on the reason you're appealing. Look for similar developments or appeals which could support your case (via the Appeal Casework Portal or via an internet search), referring to similar cases could assist the Planning Inspector in weighing up your proposal.

ADDITIONAL COSTS

Applications for award of costs can be made by either party in the appeal process, so be aware the Council could apply for their costs associated with the appeal to be paid by you (although rare this can happen). However, you can also make an application for award of costs if you believe the Council have acted unreasonably.

Be realistic in any application for costs, just because you disagree with the planning outcome doesn't mean the Council have been unreasonable, refer to the Planning Inspectorate website for more information.

Be aware of any additional costs such as technical report costs, legal agreements (s106),

Community Infrastructure Levy (CIL) etc. For instance, if a scheme was refused due to traffic impact, you may wish to commission a transport study to support your appeal. If a legal agreement (s106) is required to secure planning obligations you must submit this (or Unilateral Undertaking) along with your appeal. If you omit an agreement the Planning Inspectorate will not allow your appeal even if they were inclined to do so.

GROUND'S FOR APPEAL

When finishing your appeal submission collate any supporting documents, plans, form etc., they can be submitted online via the **Planning Inspectorates Portal**. Your grounds of appeal must fully disclose your case through full representations and any supporting evidence. The grounds of appeal must be concise, clear and comprehensive.

TIMESCALES

It is of paramount importance that you are aware of the deadlines which are set by the Planning Inspectorate, there is generally no scope to alter these – a deadline missed could put a nail in the coffin of your planning appeal.

Don't despair if your appeal fails, take stock and read the Inspectors report to determine if there is an alternate development you can progress. If in doubt seek assistance.



REMEMBER

**ONLY THE PERSON (or
representative) WHO MADE
THE APPLICATION CAN
APPEAL.**

WHAT TO **SUBMIT**

When you find out your planning application has been refused, you maybe disappointed, frustrated and maybe even angry. Despite it being free to submit an appeal do not rush into the process without building a full and clear case.

When your appeal is ready, you must submit it to the Planning Inspectorate either online or by post, the online submission and address to send by post is available at:

www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate have their own impartial inspectors that will review your appeal.

If you think you have a strong reason to appeal you can start to build your case. You must include copies of the following:

- Your original application;
- The site ownership certificate;
- The local planning authority's decision notice – if they did not make a decision, submit a copy of the letter acknowledging your application;
- All plans, drawings and documents you sent to the local planning authority;
- A map of the surrounding area;
- Any other documents that directly support your appeal, for example your full statement of the case;



APPEAL TYPES ...

WRITTEN REPRESENTATION

These appeals are the most common and straight forward way to appeal a decision. The Inspector will decide the appeal on the basis of the written material provided by all parties and following a visit to the appeal site.

Timescale: 27 Weeks

13 weeks from receipt to start

10 weeks from start to event

4 weeks from event to decision

INFORMAL HEARINGS

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. Hearings are conducted in a more relaxed and informal atmosphere than the inquiry procedure.

Timescale: 40 Weeks

19 weeks from receipt to start

15 weeks from start to event

6 weeks from event to decision

An appeal must be submitted within 6 months of the date on the decision notice.

All written information, drawings and your grounds of appeal must be submitted at the outset when you first lodge the appeal.

Within 1 week LPA submits questionnaire and associated documents to the Planning Inspectorate which is also forwarded to the appellant.

LPA informs interested party within 1 week that an appeal has started, any further representations must be submitted within 5 weeks of the start date.

Within 5 weeks the LPA must submit a statement of case if they choose not to rely on their officer/committee report.

Within 7 weeks final comments on other parties representation/case should be made. No new evidence can be introduced.

A planning inspector will visit the site to assess the proposal, final decision will be issued.

Similar timeline to written representations, at the time of submission you should include a draft Statement of Common Ground (SoCG).

When the LPA submit a statement of case an agreed SoCG must be included.

Hearing date is set normally within 10 weeks of the start date – or the earliest date after that period which is practicable.

Draft planning obligation submitted 2 weeks prior to the hearing date (if one is required).

AND PROCESS

INQUIRIES

This is the most formal procedure as it usually involves the more complicated and/or controversial appeals. Expert evidence is often presented by witnesses who are cross examined. Parties may be represented by legal advocates.

Timescale: 39 Weeks

4 weeks from receipt to start	28 weeks from start to event	7 weeks from event to decision
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Similar to informal hearings.

Inquiry date is set normally within 16 weeks of the start date – or the earliest date after that period which is practicable.

4 weeks before the Inquiry the appellant and LPA send their proofs of evidence.

2 weeks prior to the Inquiry the date and details publicised.

No later than 10 days before the Inquiry a draft planning obligation (s106) is sent by the appellant.

HOUSEHOLDER SERVICE (HAS) APPEAL

If your planning application was for a domestic extension, i.e. a conservatory you will have submitted a householder planning application to the local planning authority and therefore can apply for a fast tracked streamlined appeal process, this is the same process for minor commercial and advertisement appeals.

Timescale: 13 Weeks

6 weeks from receipt to start	5 weeks from start to event	2 weeks from event to decision
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An appeal must be submitted within 12 weeks (8 weeks in the case of advertisements) of the date on the decision notice.

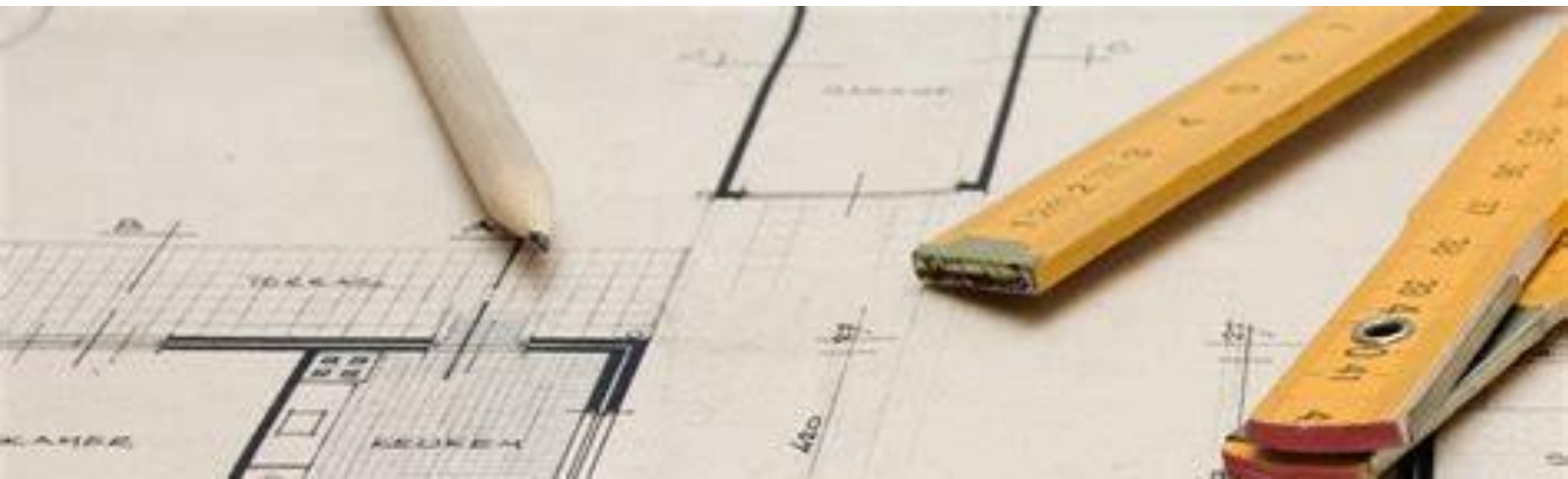
All written information, drawings and your grounds of appeal must be submitted at the outset when you first lodge the appeal.

LPA informs interested party within 1 week that an appeal has been received, however there is no opportunity to comment during this process.

A planning inspector will visit the site to assess the proposal, final decision will be issued.



Parties in planning appeals generally meet their own expenses. However you can apply for an award of costs if a party involved in your appeal has behaved unreasonably.



AWARD OF **COSTS**

Costs may be awarded where:

- a party has behaved unreasonably; **and**
- the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Grounds for claiming unreasonable behaviour include:

- Missing deadlines;
- Failure to co-operate;
- Failure to attend site visits, hearings or inquiries;
- Giving information that is wrong.

Here are some examples of costs that can be claimed:

- Time preparing for an appeal;
- Time attending a hearing or inquiry;
- The use of consultants to provide detailed technical advice;
- Witnesses if you need to pay them.

If costs are awarded in favour of you, this doesn't indicate how much should be paid to you, this must be agreed with the other party.

An Inspector can request you pay costs if you behave unreasonably, even if nobody's claiming costs against you.

The Inspector can also allow a full award of costs or partial depending on the claim.

You cannot claim costs relating to your original planning application.



WHAT IF I **DISAGREE** WITH A DECISION?

If you're an objector there are no third rights of appeal, if you are against a development which has been granted planning permission by a Local Planning Authority you can not appeal that decision.

You can consider a Judicial Review of the decision, however these only succeed if the application has been handled incorrectly in terms of the legal process, and does not mean the same decision cannot be made again if the original decision was quashed by the High Court.

Similarly, the High Court is the only authority that can formally identify a legal error in an Inspector's or Secretary of State's decision and require that decision to be re-determined.



Applications to challenge a planning
appeal and related costs decisions
must be received by the
Administrative Court within
42 days (6 weeks) from the
date of the decision.



NEXT STEPS

Assuming you are in a position to appeal, the next steps are up to you, however it is advised you consider the following:

- Engage with your local planning authority regarding alternative development to potentially avoid a planning appeal;
- Be aware of what evidence you or the Council have to support both sides of the argument;
- Be aware of the planning policies relevant to your site, these will be critical when forming your planning case for an appeal;
- Read the officer's report about your proposal and focus on the reason you're appealing i.e. condition or refusal of permission;
- Look for similar appeals which could support your case (via the [Appeal Casework Portal](#) or via an internet search);
- Be realistic in any application for costs, just because you disagree with the planning outcome doesn't mean the Council have been unreasonable;
- Be aware of the potential for an award of costs against you, although rare this can happen;
- Be aware of any additional costs such as technical report costs, s106, CIL etc.;
- Collate any supporting documents and have plans, form etc. completed and ready to submit;
- Your grounds of appeal must fully disclose your case through full representations and any supporting evidence. The grounds of appeal must be concise, clear and comprehensive.
- Importantly, be aware of both the process and potential timescales and importantly deadlines associated with the planning appeal;

If you need help find a Town Planning Consultant to advise and support you through the process, Planning House would be happy to assist.

There are other [Town Planning...The Basics](#) booklets available to download at

www.planninghouse.co.uk

GLOSSARY OF DOCUMENTS

Statement of Case

Before making an appeal (whether against refusal or non-determination the appellant should review the documents and arguments identified during consideration of their application, especially any correspondence from interested people and planning officer reports/communications. Any arguments in reaction to these documents should therefore be included in their full statement of case. This document highlights your grounds for appealing the decision.

Statement of Common Ground (SoCG)

An agreed written statement containing factual information about the proposal which is the subject of the appeal that the appellant reasonably considers will not be disputed by the local planning authority.

An agreed statement of common ground is essential to ensure that the evidence considered at a hearing or an inquiry focuses on the material difference between the appellant and the local planning authority.

Proof of Evidence

A statement of case sets out the details for the appeal, a proof of evidence allows expert witness for an Inquiry procedure. The evidence of each witness should address distinct topics and not overlap another's. Expert evidence is given by a person who is qualified, by training and experience in a particular subject or subjects, to express an opinion.

Core Documents

These are documents that are of general/background relevance to an Inquiry.



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info@planninghouse.co.uk



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