The Planning Inspectorate

Procedural Guide

Planning appeals and called-in planning applications - England

28 August 2013

PROCEDURAL GUIDE

PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS – ENGLAND

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Annexes

1 INTRODUCTION

1.1 Background

1.1.1 This publication replaces PINS 01/2009 first introduced on 6 April 2009 and the suite of Good Practice Advice Notes which were published in 2009. The content of this document is guidance only with no statutory status. However, Inspectors will follow the general principles, adapting them as necessary for an individual called-in application or appeal whilst ensuring that no party is prejudiced. It should be read alongside any relevant circular and guidance published by the Department for Communities and Local Government.

1.2 Responsibilities of the appellant, the local planning authority and other parties

1.2.1 Making an appeal should not be used as a bargaining tactic but only as the last resort. Appellants should be confident at the time they make their appeal that they have a clear case and do not need to commission further evidence.

1.2.2 When refusing an application, the local planning authority should consider carefully whether it has a sufficiently strong case, capable of being argued at appeal, on the basis of the material before it.

1.2.3 The Secretary of State's ability to deliver timely and high-quality decisions on called-in applications and appeals relies on all parties following good practice and behaving reasonably. The parties must meet the statutory timetables to ensure that no-one is disadvantaged and the appeal can be processed efficiently.

1.2.4 If a party does not behave reasonably they leave themselves open to costs being awarded against them. This would be on the basis that the behaviour had directly caused another party to incur expenses that would not otherwise have been necessary.

1.2.5 Costs may be awarded in response to an application for costs by one of the parties. In addition, in relation to:

- appeals received on or after 1 October 2013; and
- called-in planning applications where the date of the call-in letter is 1 October 2013 or later;

costs may be awarded at the initiative of the Inspector.

1.2.6 There is a Department for Communities and Local Government Circular 03/09 "Costs awards in appeals and other planning proceedings" and a booklet, "Costs awards in planning appeals (England) – a guide for appellants" available on the Planning Portal: http://www.planningportal.gov.uk/planning/appeals/guidance/costs

1.2.7 The appellant should read the information about making an application for costs before they make their appeal. Similarly if an application has been called-in the applicant should read the information.

1.3 The importance of continued discussion about a planning application

1.3.1 The local planning authority should have constructive discussions with the applicant and, if it has any concerns, give the applicant the opportunity to amend the application before it is decided. This should help to avoid the need to appeal, especially appeals where the local planning authority has failed to make a decision.

1.3.2 The reasons for refusal should be clear and comprehensive and if the elected members' decision differs from that recommended by their planning officers it is essential that their reasons for doing so are similarly clear and comprehensive. Clear reasons for refusal will help continued discussions and may mean that agreement can be reached. A new application may often be the best way forward.

1.4 Calling-in a planning application

1.4.1 The Secretary of State will "call-in" a planning application only if certain circumstances apply. For further information please see Annexe A.

1.5 Who decides a called–in application or an appeal?

1.5.1 The Secretary of State decides all planning applications that are called-in. 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 proposed schemes. For further information please see Annexe B. Also, guidance on the Secretary of State's decision making functions on called-in planning applications and recovered planning appeals is available at:
https://www.gov.uk/government/publications/planning-propriety-issues-guidance

1.6 What is the timetable for an appeal and what are the rules?

1.6.1 Once we have received an appeal and ensured that it is valid we will confirm the procedure and notify the appellant and the local planning authority of the appeal start date, reference number, the timetable for the appeal and the specific address (room number and email address) to which any correspondence should be sent.

1.6.2 An appeal in connection with a householder application ("a householder appeal") will normally proceed through the Householder Appeals Service by written representations.

"Householder application"[1] means:

> "(a) an application for planning permission for development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse; or
> (b) an application for any consent, agreement or approval required by or under a planning permission, development order or local development order in relation to such development."

but does not include an application for change of use or an application to change the number of dwellings in a building.

1.6.3 "Householder application" also includes an application for prior approval of a larger single-storey rear extension.

1.6.4 Within 5 days of the start date the local planning authority should complete our questionnaire and send it and supporting documents to us and to the appellant. An Inspector visits the site and the decision is normally issued within 8 weeks of the start date of the appeal. For the legislation and further information please see Annexe C.

1.6.5 For other types of planning appeals proceeding by written representations, within 2 weeks of the start date the local planning authority should complete our questionnaire and send it and supporting documents to us and to the appellant. Within 6 weeks interested people may send us their representations and the appellant and the local planning authority may send us further representations. Within 9 weeks the appellant and the local planning authority only may comment on representations received. An Inspector will visit the site. For the legislation and further information please see Annexe D.

1.6.6 For an appeal proceeding by a hearing, within 2 weeks of the start date the local planning authority should complete our questionnaire and send it and supporting documents to us and to the appellant. Within 6 weeks interested people may send us their representations and the appellant and the local planning authority send us their hearing statement. We will try to hold the hearing within 12 weeks of the start date. For the legislation and further information please see Annexe E.

1.6.7 For an appeal proceeding by an inquiry, within 2 weeks of the start date the local planning authority should complete our questionnaire and send it and supporting documents to us and to the appellant. Within 6 weeks interested people may send us their representations and the appellant and the local planning authority send us their statement of case and their agreed statement of common ground. No later than 4 weeks before the date of the inquiry they send us their proofs of evidence. We will try to hold the inquiry within 20 weeks of the start date. For the legislation and further information please see Annexe F.

[1] This is defined in Article 2 - Interpretation - of the Town and Country Planning (Development Management Procedure) (England) Order 2010 Statutory Instrument 2010/2184.

1.6.8 For inquiries

- where the appeal was received before 19 August 2013 if the inquiry is expected to sit for 6 days or more; and
- where the appeal was received on or after 19 August 2013 if the inquiry is expected to sit for 3 days or more; and
- being held into a called-in planning application;

we will invite the appellant (or applicant in a called-in application), the local planning authority and any Rule 6 party to agree a bespoke programme, which will set out the timetable for the case. For further information please see Annexe G.

1.6.9 Keeping to the timetables is fundamental to an efficient and fair appeals service and we expect everyone to comply with them.

1.7 What happens if we receive documents after the deadline?

1.7.1 If we receive documents after the deadline we will return them and they will not be seen by the Inspector. Exceptionally we, or the Inspector at a hearing or inquiry, will accept a representation/document/evidence after the deadline, for example if it is in the interests of natural justice to do so.

1.8 What happens if there is new legislation or new or emerging policies?

1.8.1 The local planning authority should alert us if it becomes aware at any stage before the appeal decision is issued of any material change in circumstances which have occurred since it determined the application (eg a newly adopted or emerging policy) that is directly relevant to the appeal. It should indicate the anticipated date of adoption of any emerging policy.

1.8.2 The Inspector has to make the decision (or the report and recommendation to the Secretary of State for a called-in application or recovered appeal) under the circumstances existing at the time he or she makes it. The Inspector will therefore take account of:

- the material submitted to the local planning authority;
- all the appeal documents;
- any relevant legislation and policies, including changes to legislation, any new Government policy and any new or emerging development plan policies since the local planning authority's decision was issued;
- any other matters that are material to the appeal.

1.8.3 Where the change in circumstances is likely to affect the outcome of the appeal we will ensure that all parties have an appropriate opportunity to comment on the new material.

2 GENERAL MATTERS

2.1 What are the procedures?

2.1.1 This guide explains the procedures for planning appeals and for planning applications which are called-in for decision by the Secretary of State.

2.1.2 There are 3 processes that an appeal can follow, written representations, a hearing or a local inquiry. Appeals in connection with a householder application normally proceed through the Householder Appeal Service – which is a written representations procedure that has a shorter timescale than other planning appeals proceeding by written representations.

- Annexe C contains the procedure for householder appeals;
- Annexe D contains the procedure for other written representations appeals;
- Annexe E contains the procedure for hearings;
- Annexe F contains the procedure for inquiries.

2.1.3 Applications that are called-in or planning appeals that are recovered for the decision to be made by the Secretary of State (please see Annexe B) proceed by inquiry in most cases. In these cases the Inspector reports with recommendations to the Secretary of State.

2.1.4 This guide also applies to appeals in respect of listed buildings and conservation areas. Although the written representations Regulations do not formally apply to these types of appeals, where these appeals proceed by written representations they will be conducted within the spirit of those Regulations. In addition, the power to determine the procedure (please see paragraph 2.7.1) does not apply to these types of appeals.

2.2 Postponements, adjournments, abeyance, and linked cases

2.2.1 Our usual practice is to resist postponements and adjournments in view of the delay and disruption this causes. We will not normally postpone or put cases into abeyance to await the outcome of a revised planning application. We only consider postponing or putting cases into abeyance if there are exceptional reasons. We also do not normally link appeals unless they are made at the same time. Appellants should therefore not make their appeal until they are ready to proceed to the decision.

2.3 Making an appeal

2.3.1 Only the person who made the planning application can make an appeal.

2.3.2 There is a set of “How to complete your appeal form” documents available on the Planning Portal: http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess

2.3.3 Potential appellants should read the relevant "How to..." before they make their appeal as they contain important information about the appeal form, including how to present documents.

2.3.4 Wherever possible the appellant should make their appeal online through the Planning Portal:
http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal

2.3.5 We encourage and support appellants, local planning authorities and interested people to work electronically with us both through the Planning Portal and by email. For further information about how to send documents to us electronically please see Annexe H.

2.3.6 If a potential appellant does not have access to the internet they should contact us and we will send them a paper appeal form.

2.3.7 Appellants must send complete appeals and supporting documents to us so that we receive them within the time limit. At the same time they must send a copy to the local planning authority.

2.4 What are the time limits to make an appeal?

2.4.1 There are different time limits to make an appeal depending on the type of appeal and the circumstances.

2.4.2 For an appeal in relation to:

Householder planning application

We must receive it within 12 weeks from the date on the decision notice.

However, if an enforcement notice has been served for the same or very similar development the time limit is:

- within **28 days** from the date of the local planning authority's decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- within **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 12 weeks).

Note – If the local planning authority has failed to determine a householder planning application or an appeal is being made against the grant of permission subject to conditions to which the applicant objects, the time limits under "Other types of planning applications" below apply.

Other types of planning applications

We must receive it:

- within **6 months** from the date on the decision notice, or
- within **6 months** from the expiry of the period which the local planning authority had to determine the application.

However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- within **28 days** from the date of the local planning authority's decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- within **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

Note – The local planning authority determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). However, if the applicant has agreed a longer period with the local planning authority, the time limit runs from the end of that period.

Listed building consent or conservation area consent application

We must receive it:

- within **6 months** of notice of the decision, or
- within **6 months** of the expiry of the period which the local planning authority had to determine the application.

Note – The local planning authority determination period is usually 8 weeks. If the applicant has agreed a longer period with the local planning authority the time limit runs from the end of that period.

Advertisement consent application

We must receive it:

- within **8 weeks** of the date of receipt of the decision, or
- within **8 weeks** of the expiry of the period which the local planning authority had to determine the application.

Note – The local planning authority determination period is usually 8 weeks. If the applicant has agreed a longer period with the local planning authority, the time limit runs from the end of that period.

2.5 Grounds of appeal

2.5.1 Appellants should set out their full grounds of appeal when making the appeal. For further information about grounds of appeal please see Annexe I.

2.6 Planning conditions

2.6.1 The appellant when making their appeal and the local planning authority when sending us its completed copy of our questionnaire, or as a separate document when sending its representations/hearing statement/statement of case should indicate if they wish to accept or can suggest a planning condition(s) that they think would mitigate the impact of the proposal. A list of model conditions can be found on the Planning Portal: http://www.planningportal.gov.uk/planning/planninginspectorate/inspector/modelconditions

2.6.2 The appellant and local planning authority may also wish to look at DoE Circular 11/95: The use of conditions in planning permissions.

2.6.3 A hearing or inquiry will usually include a discussion about the conditions which may be imposed if the proposal is granted planning permission. The fact that conditions are suggested does not mean that the appeal will be allowed and planning permission granted or that, if allowed, conditions will be imposed.

2.7 Who determines the appeal procedure?

2.7.1 Section 319A of the Town and Country Planning Act 1990 gives the Secretary of State the power to determine the procedure for dealing with various appeals and applications. This power, which has been commenced in relation to planning and enforcement appeals, will be exercised by us, taking account of the criteria for determining the appeal procedure (please see Annexe J).

2.7.2 When making an appeal, the appellant should identify which appeal procedure they consider to be the most appropriate and give reasons to support this.

2.7.3 We will ensure that the most appropriate appeal procedure is selected, taking account of the criteria, the views of the appellant, the local planning authority and any appropriate expert involvement. We will determine which procedure will be followed within 7 working days of receiving a valid appeal.

2.7.4 We will give reasons for the determination where this differs from the procedure requested by the appellant or the local planning authority. If circumstances change we will review the procedure and if necessary we will change it at any point before a decision on the appeal is made. The Inspector also may decide that the procedure needs to be changed.

2.7.5 The appellant or the local planning authority may ask for the determination to be reviewed by a senior officer.

2.8 What is the process for challenging a decision made during the processing of a case?

2.8.1 For decisions made by administrative staff during the processing of a called–in application or an appeal there is no statutory right to challenge that decision in the High Court. However it is possible to make an application for judicial review of such a decision. For further information please see Annexe R.

2.9 What is the role of interested people?

2.9.1 People who are interested in the outcome of an appeal “interested people” (often also called “third parties”, “interested parties” or “interested persons”) have an important role to play in the planning process. Their

representations indicating support for, or opposition to, a proposed scheme are taken into account along with other material considerations.

2.9.2 There is a set of "Guide to taking part in a planning appeal" documents available on the Planning Portal. These explain how interested people can get involved in the appeal process: http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess

2.9.3 Anyone who wants to take part in a planning appeal should read the relevant "Guide to taking part in a planning appeal".

3 OTHER IMPORTANT INFORMATION

3.1 Can a proposed scheme be amended?

3.1.1 If, exceptionally, the appellant wishes to amend a scheme at the appeal stage, we will consider each request on its own merits. For further information please see Annexe K.

3.2 What happens if someone discloses evidence late?

3.2.1 If the appellant or the local planning authority introduces material during the appeals process which was not included within the grounds of appeal or sent with the questionnaire this can lead to the need to change the procedure or to adjourn hearings or inquiries. For appeals following the written representations procedure late disclosure may require an extension to the standard timetable, to allow all parties to be made aware of, and be given the opportunity to comment upon, the late evidence. Late disclosure of evidence can lead to a claim for costs.

3.3 Can there be new material during an appeal?

3.3.1 There will be rare occasions when new matters will arise during an appeal which ought to be considered by the Inspector. For further information please see Annexe L.

3.4 Planning obligations

3.4.1 The appellant and the local planning authority should include with their appeal documentation any certified or draft (as appropriate) section 106 planning obligation which they wish the Inspector to consider. For further information please see Annexe M.

3.5 What is "Expert evidence"?

3.5.1 Expert evidence is evidence that is given by a person who is qualified, by training and experience in a particular subject or subjects, to express an opinion. For further information please see Annexe N.

3.6 What is the procedure for advertisement appeals?

3.6.1 The procedures for advertisement appeals and appeals against a discontinuance notice are different in quite a few ways. For further information please see Annexe O.

3.7 Openness and transparency

3.7.1 Hearings and inquiries are open to journalists and the wider public, as well as interested people. Provided that it does not disrupt proceedings, anyone will be allowed to report, record and film proceedings including the use of digital and social media. Inspectors will advise people present at the start of the event that the proceedings may be recorded and/or filmed, and that anyone using social media during or after the end of the proceedings should do so responsibly.

3.7.2 If anyone wants to record or film the event on equipment larger than a smart phone, tablet, compact camera, or similar, especially if that is likely to involve moving around the venue to record or film from different angles, they should contact us and the local planning authority in advance to discuss arrangements.

4 THE DECISION

4.1 Where will the decision be published?

4.1.1 When made, the decision will be published on the Planning Portal and can be viewed using the online search facility: http://www.planningportal.gov.uk/planning/appeals/online/search

5 AFTER THE DECISION

5.1 What happens if an error has been made?

5.1.1 We cannot change the decision however we have the power to correct certain types of errors in decisions. For further information please see Annexe P.

5.2 Feedback and complaints

5.2.1 We welcome feedback both positive and negative about people's experience of dealing with us. For further information please see: http://www.planningportal.gov.uk/planning/planninginspectorate/customerfeedback/feedback

5.2.2 Complaints against an Inspector's decision or the Inspector or the way we administered a case are dealt with by our Quality Assurance Unit. We operate to a target that 99% of decisions are free from justified complaint

or successful legal challenge. All complaints are investigated thoroughly and impartially. For further information please see Annexe Q.

5.3 How can a decision be challenged?

5.3.1 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 planning appeal decisions and decisions on a called-in application must be received by the Administrative Court within 42 days (6 weeks) from the date of the decision. For other casework please contact the Administrative Court for information about the process. For further information please see Annexe R.

5.4 Who makes sure that development is in accordance with planning permission?

5.4.1 If planning permission is granted, by the local planning authority at application stage, by the Inspector on appeal or by the Secretary of State on appeal or on an application that has been called-in, the local planning authority has the sole responsibility for monitoring the implementation of the permission and ensuring that it is in accordance with the plans and any conditions.

5.4.2 If the local planning authority considers that the development does not comply with the permission it has the power to take enforcement action.

6 CONTACTING US

6.1 To discuss a particular appeal or a called-in application please contact our Case Officer – the local planning authority can provide their details. For general enquiries our contact details are:

The Planning Inspectorate
Customer Support Team
Room 3/13
Temple Quay House
2 The Square
Bristol
BS1 6PN

Helpline: 0303 444 5000
Email: enquiries@planning-inspectorate.gsi.gov.uk

6.2 Or for queries about problems with working electronically:

Email: pcs@pins.gsi.gov.uk

A Calling-in a planning application

A.1 Legislation

A.1.1 Under section 77 of the Town and Country Planning Act 1990 the Secretary of State has powers to direct the local planning authority to refer an application to him for decision. This is what is meant by a 'called-in' application.

A.1.2 The Secretary of State will, in general, only consider the use of his call-in powers if planning issues of more than local importance are involved. For the criteria used to decide if an application should be called-in please see the Written Ministerial Statement in Hansard: http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121026/wmstext/121026m0001.htm

A.1.3 If an application is called-in it may be that the local planning authority support the application (and may have granted permission if it had not been called-in). In these cases the only opposition to the proposed development may be by local residents or special interest groups, statutory consultees or other Government Departments.

A.2 If an application is called-in what happens?

A.2.1 When the Secretary of State calls-in an application, he gives his direction in a letter to the local planning authority which will be issued by the National Planning Casework Unit, which also writes to the applicant and any statutory party.

A.2.2 Usually an inquiry will be held. The inquiry procedure is set out in The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, Statutory Instrument 2000/1624 (as amended).

A.2.3 All called-in applications will follow the bespoke timetable approach. For further information please see Annexe G.

A.2.4 The Inspector must approach the inquiry with an open mind. For this reason, he or she will not see correspondence which may have influenced the Secretary of State to call-in the application. So even if an interested person has already written to the local planning authority or National Planning Casework Unit about the application, if they want to make sure that the Inspector is aware of their views they must write to our Case Officer.

A.2.5 If a party has a statutory right to appear at the inquiry they will be asked to provide a full written statement of case before the inquiry under the Rules. It should be direct and to the point.

A.2.6 If any other party wishes to appear and present evidence at the inquiry we may require them to provide a full written statement of case –

under Rule 6. Please see Annexe F paragraph 7.3 and for further information please see our "Guide to Rule 6 for interested parties involved in an inquiry" http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess

A.2.7 We will:

- require the local planning authority to publicize the inquiry arrangements in the local press;
- require the local planning authority to inform owners and occupiers of properties near the application site, those who made representations to the local planning authority at application stage and anyone else it thinks may be affected by the development of the inquiry arrangements;
- require the applicant, if he or she controls the site, to post a notice on the site in a place where it can be seen by the public.

A.2.8 If an interested party is not going to attend the inquiry but wants their views to be known they must send their representations to our Case Officer as soon as possible.

A.3 Report to the Secretary of State and the decision

A.3.1 For an application which has been call-in, the Inspector will write a report which will contain his or her conclusions and make a recommendation on whether planning permission be granted (with or without conditions) or refused. The report will be sent to the Secretary of State to make the decision taking into account the Inspector's recommendation. When the Secretary of State has reached a decision, this will be explained in the decision letter. This letter will normally be sent by Planning Casework which is part of the Department for Communities and Local Government, based in London.

A.3.2 Under the statutory timetabling provisions set down by the Act[2] all parties involved in the called-in application will normally be advised of the expected date of the Secretary of State's decision within 10 days of the close of the inquiry or hearing[3].

A.3.3 Called-in application decision letters are available on the Department for Communities and Local Government area of the GOV.UK website:
https://www.gov.uk/planning-applications-called-in-decisions-and-recovered-appeals

and on the Planning Portal using the online search facility:
www.planningportal.gov.uk/planning/appeals/online/search

[2] Section 55 and Schedule 2 of the Planning and Compulsory Purchase Act 2004.
[3] Or in the case of an appeal proceeding by written representations within 10 days of the site visit.

B Who decides an appeal?

B.1 Legislation

B.1.1 Under section 78 of the Town and Country Planning Act 1990 there is a right for the original applicant to make an appeal to the Secretary of State. Through legislation, for the vast majority of appeals, the authority – "the jurisdiction" - to decide an appeal has been transferred to an Inspector.

B.1.2 However, jurisdiction may be recovered for the Secretary of State to make the decision. These are referred to as "recovered appeals". For the criteria used to decide if an appeal should be recovered please see the Written Ministerial Statement in Hansard (these may be revised or supplemented by a subsequent ministerial statement): http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080630/wmstext/80630m0001.htm

B.1.3 Recovery of jurisdiction can occur at any stage before the decision is issued, even after the site visit, a hearing or an inquiry has taken place.

B.2 If an appeal is recovered what happens?

B.2.1 If an appeal is recovered we will write to tell the appellant and the local planning authority setting out the reasons for this.

B.2.2 A recovered appeal can proceed by written representations, a hearing or an inquiry, and will follow the appropriate rules for each procedure. We will determine which procedure is most appropriate for the appeal, following the criteria (please see Annexe J) and will tell the appellant and the local planning authority in writing which procedure the appeal will follow.

B.2.3 For appeals

- where the appeal was received before 19 August 2013 if the inquiry is expected to sit for 6 days or more; and
- where the appeal was received on or after 19 August 2013 if the inquiry is expected to sit for 3 days or more;

we will invite the appellant, the local planning authority and any Rule 6 party to agree a bespoke programme. Please see Annexe F paragraph 7.3 and for further information please see our "Guide to Rule 6 for interested parties involved in an inquiry": http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess)

B.2.4 For further information about a bespoke timetable please see Annexe G.

B.2.5 If a party has a statutory right to appear at the inquiry, they will be asked to provide a full written statement of case before the inquiry under the Rules. It should be direct and to the point.

B.2.6 We will:

- require the local planning authority to publicize the inquiry arrangements in the local press;
- require the local planning authority to inform owners and occupiers of properties near the appeal site, those who made representations to the local planning authority at application stage and anyone else it thinks may be affected by the development of the inquiry arrangements;
- require the appellant, if he or she controls the site, to post a notice on the site in a place where it can be seen by the public.

B.2.7 If an interested party is not going to attend the inquiry but want their views to be known they must send their representations to our Case Officer as soon as possible.

B.3 Report to the Secretary of State and the decision

B.3.1 If an appeal has been recovered, the Inspector will write a report which will contain his or her conclusions and make a recommendation on whether the appeal should be allowed and planning permission be granted (with or without conditions) or dismissed. The report will be sent to the Secretary of State to make the decision taking into account the Inspector's recommendation. When the Secretary of State has reached a decision, this will be explained in the decision letter. This letter will normally be sent by Planning Casework which is part of the Department for Communities and Local Government, based in London.

B.3.2 Under the statutory timetabling provisions set down by the Act[4]all parties involved in the appeal will normally be advised of the expected date of the Secretary of State's decision within 10 days of the close of the hearing or inquiry[5].

B.3.3 Recovered appeal decision letters are available on the Department for Communities and Local Government area of the GOV.UK website: https://www.gov.uk/planning-applications-called-in-decisions-and-recovered-appeals

and on the Planning Portal using the online search facility: www.planningportal.gov.uk/planning/appeals/online/search

[4] Section 55 and Schedule 2 of the Planning and Compulsory Purchase Act 2004.
[5] Or in the case of an appeal proceeding by written representations within 10 days of the site visit.

C Householder appeals

Part 1 of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (Statutory Instrument 2009/452)

C.1 Process and scope

C.1.1 For householder appeals proceeding through the "Householder Appeals Service", by written representations which is explained in Part 1 of the Regulations, relevant documentation can be seen on the Planning Portal and can be viewed using the search facility: http://www.planningportal.gov.uk/planning/appeals/online/search.

C.1.2 Most appeals against refusals of householder applications[6] are dealt with by written representations. The following appeals are within the scope of the Part 1 process:

- appeals against the refusal of householder applications for planning permission for development such as dwellinghouse extensions, alterations, garages, swimming pools, walls, fences, vehicular access, porches and satellite dishes (this list is not exhaustive);
- appeals against the refusal of any consent, agreement, or approval required by or under a planning permission, development order or local development order in relation to such development. This includes appeals against the refusal of an application for prior approval of a larger single-storey rear extension; and
- appeals against a local planning authority's decision to refuse to remove or vary a condition or conditions attached to a previous planning permission for householder development.

C.1.3 The following are not within the scope of the Part 1 process:

- appeals in relation to proposals for additional dwellings, replacement dwellings and any change of use;
- appeals in relation to proposals for any development to a flat;
- appeals against the decision of the local planning authority to impose a condition or conditions on a planning permission for householder development;
- appeals where the local planning authority has failed to make a decision (non-determination or "failure" appeals);
- appeals against the refusal of listed building consent applications, conservation area consent applications or related applications for planning permission; and
- appeals against enforcement notices or in relation to an application for a certificate of lawful use or development.

[6] This is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2010 and the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009.

C.1.4 There may be circumstances where we determine that an appeal is not suitable to proceed by the Part 1 process. This may be evident at the beginning, or may come to light during the processing of an appeal. In such instances the appeal may proceed under Part 2 of the Regulations (as described in Annexe D) as a written representations appeal or we may determine that a hearing or inquiry should be held.

C.2 The appellant

C.2.1 The appellant must ensure that we receive their householder planning appeal within 12 weeks (not 3 months) of the date of the notice of the local planning authority's decision. However if the local planning authority has taken enforcement action the time limit is shorter. For important information please see paragraph 2.4.

C.2.2 The appellant must send a copy of the planning application form and the local planning authority's decision notice with the householder planning appeal to us. Appellants should not send copies of plans or any other material sent with the planning application, as this documentation will be supplied by the local planning authority. The appellant must copy the appeal to the local planning authority.

C.2.3 The appellant's grounds of appeal should fully disclose their case through full representations and any supporting evidence. The grounds of appeal must be concise, clear and comprehensive. The appellant should respond to the reasons for refusal set out in the local planning authority's decision notice, any issues raised in the planning officer's report and should explain the basis on which they consider planning permission should be granted (please see Annexe I).

C.2.4 The appellant may also wish to respond to any representations the local planning authority received from interested people during the application stage. As part of considering the merit of making an appeal the onus is on the appellant to check with the local planning authority directly whether such representations have been received and, if so, to make the necessary arrangements to view them.

C.2.5 Having made their appeal, the appellant will not normally be able to send any further material unless further information or response is required and requested by the Inspector.

C.3 What happens when we receive an appeal?

C.3.1 Within 7 days of receiving a valid appeal we will determine whether the appeal is suitable for the Part 1 process, and, if so, will confirm to the appellant and the local planning authority:

- the reference number allocated to the appeal;
- that the appeal will proceed by way of the Part 1 process.

C.3.2 The date of this notification letter will be the start date for the appeal.

C.4 What does the local planning authority have to do?

C.4.1 When notified by us that a householder appeal is to proceed by the "Householder Appeals Service", the Part 1 process, the local planning authority must send a completed copy of our Householder appeal questionnaire and copies of all of the relevant documents to us and to the appellant within 5 working days of the start date. The local planning authority must indicate on the questionnaire what appeal procedure it considers appropriate, taking account of the criteria (see Annexe J). If this differs from that determined by us we will review the procedure.

C.4.2 The local planning authority's case will be its reasons for refusal and the documentation supplied with the questionnaire. With the questionnaire it should identify any factual error in the appellant's grounds of appeal and any new material or changes made which were not before it at the time it made its decision.

C.4.3 The local planning authority will not normally be able to send any further material after the questionnaire stage unless further information or response is required and requested by the Inspector.

C.5 Who tells interested people about the appeal?

C.5.1 Within 5 working days of the start date the local planning authority must notify interested people:

- that an appeal has been made;
- that any representations made to the local planning authority in relation to the application, will be sent to the Planning Inspectorate and the appellant, and will be considered by the Inspector when deciding the appeal;
- how they can withdraw their representations if they wish to do so; and
- that the decision will be published on the Planning Portal.

C.5.2 The local planning authority will already have informed interested people at the application stage that, in the event of an appeal, there normally will be no further opportunity to make representations at appeal stage.

C.5.3 We encourage local planning authorities to use the model householder appeal notification letter on the Planning Portal: http://www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/onlineappealservicelpahelp/modelnotificationsforlpa

C.6 Is the appeal site visited?

C.6.1 Visits to the appeal site and of any relevant neighbouring land or properties are normally carried out where it is necessary to assess the impact of a development on its surroundings. The purpose of the visit is solely to enable the site and its surroundings to be viewed.

C.6.2 Where the site is sufficiently visible from the road or public viewpoint the visit will be carried out unaccompanied.

C.6.3 If access to the site is required, we will contact the appellant/agent with a date and a morning or afternoon time slot when the Inspector will carry out the site visit. The appellant's or agent's presence will be required solely to provide access to the site. Similar arrangements will be made with neighbours where it is necessary to view the site from their property. The local planning authority will not attend the site visit.

C.6.4 The local planning authority should advise us (when completing the questionnaire) and the neighbour concerned if it is certain of such a need, and provide us with the neighbour's contact details.

C.6.5 The Inspector will not allow any discussion about the case with anyone at the site visit.

Timetable for householder appeals through the "Householder Appeal Service" – the Part 1 process

Timetable	Interested people	Appellant	Local planning authority
Appeal received by us We set the start date and the timetable		Sends the appeal form, all supporting documents and any application for costs to us and to the local planning authority. The appeal representations should make up the full case	The local planning authority receives a copy of the appeal
5 days after the start date	No opportunity to comment		The local planning authority sends us its completed questionnaire and all application documents Notifies interested people of the appeal and explains there is no opportunity for further representations
Inspector visits the site and makes the decision			

D Written representations procedure for other appeals

Part 2 of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (Statutory Instrument 2009/452)

D.1 What is the process?

D.1.1 Under the Part 2 written representations procedure, 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.

D.2 The appellant

D.2.1 The appellant must ensure that we receive their planning appeal within the time limit which is usually within 6 months of the date of the notice of the local planning authority's decision unless the local planning authority has taken enforcement action in which case the time limit is shorter. For important information please see paragraph 2.4.

D.2.2 The appellant must send a copy of the planning application form and the local planning authority's decision notice with the appeal along with the other essential supporting documents detailed on the online and paper appeal forms to us. The appellant must copy the appeal to the local planning authority.

D.2.3 The appellant's representations should fully disclose their case through full grounds of appeal and any supporting evidence. For further information about grounds of appeal please see Annexe I.

D.3 Notice to interested people

D.3.1 Within 2 weeks of the start date the local planning authority must notify interested people[7]:

- that an appeal has been made;
- that any representations made to the local planning authority in relation to the application will be sent to the Planning Inspectorate and the appellant and will be considered by the Inspector when deciding the appeal;
- how they can withdraw their earlier representations if they wish to do so;
- that further written representations may be sent to the Planning Inspectorate within 6 weeks of the start date (and give the address and email address to which any further representation should be sent); and

[7] Interested persons" being (a) any person notified or consulted in accordance with the Act or a development order about the application which has given rise to the appeal; and (b) any other person who made representations to the local planning authority about that application - Regulation 6 of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009.

- that the decision will be published on the Planning Portal.

D.3.2 We encourage local planning authorities to use the model notification letter on the Planning Portal: http://www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/onlineappealservicelpahelp/modelnotificationsforlpa

D.4 The appeal questionnaire

D.4.1 The local planning authority must send a completed copy of our questionnaire and copies of all of the relevant documents to us and to the appellant within 2 weeks of the start date of the appeal. The local planning authority must indicate on the questionnaire which appeal procedure it considers appropriate, taking account of the criteria (please see Annexe J). If this differs from that determined by us we will review the procedure.

D.4.2 The relevant background documents should be sufficient to present the local planning authority's case. The local planning authority should notify us and the appellant if it decides to treat the questionnaire, and supporting documents, as its full representations on an appeal.

D.5 Local planning authority's representations at the 6 week stage

D.5.1 If the local planning authority decides it needs to make further representations, it should send these to us (2 copies if not sent electronically) within 6 weeks of the start date. These should not normally include new evidence or additional technical data. We will copy these further representations to the appellant.

D.6 The appellant's representations and the 6 week stage

D.6.1 The appellant may decide to rely on their grounds of appeal and the documents accompanying it as their representations on their appeal.

D.6.2 If the appellant decides to make any further representations, they should send these to us (2 copies if not sent electronically) within 6 weeks of the start date. These should not normally include new evidence or additional technical data. We will copy these further representations to the local planning authority.

D.7 Interested people's representations and the 6 week stage

D.7.1 Interested people notified of the appeal can rely on the representations they made to the local planning authority at the application stage, as it will forward these to us and the representations will be taken into account by the Inspector.

D.7.2 If having considered the appellant's grounds of appeal an interested person wishes to make representations or further representations they should do so online through the Planning Portal using the search facility: http://www.planningportal.gov.uk/planning/appeals/online/search

or send them by email or in writing to us (3 copies if possible). They should ensure that we receive them within 6 weeks of the start date. We will copy any representations received to the appellant and the local planning authority. There is normally no further opportunity for interested people to make representations after the 6 week stage.

D.8 Comments at the 9 week stage

D.8.1 If either the appellant or the local planning authority wishes to comment on any representations made at the 6 week stage, they must send their comments to us (2 copies if not sent electronically) within 9 weeks of the start date. These comments should not introduce new material or technical evidence. We will copy the comments to the other appeal party.

D.9 Is the appeal site visited?

D.9.1 Visits to the appeal site and any relevant neighbouring land or properties are normally carried out where it is necessary to assess the impact of a development on its surroundings. The purpose of the visit is solely for the site and its surroundings to be viewed.

D.9.2 Where the site is sufficiently visible from the road or public viewpoint the visit will be carried out unaccompanied.

D.9.3 Where access is required, it may be necessary for a representative of the appellant, the local planning authority and, where appropriate, interested people to attend the site visit. Arrangements will be made with neighbours where it is necessary to inspect the site from their property.

D.9.4 An accompanied site visit is not an opportunity for those present to discuss the merits of the appeal or the written evidence they have provided. The Inspector will therefore not allow discussion about the appeal with anyone at the site visit but parties may point out physical facts that they have referred to in their written evidence.

Timetable for the Part 2 written procedure

Timetable	Interested people	Appellant	Local planning authority
Appeal received We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The appeal representations should make up their full case	Receives the appeal documents
Within 2 weeks from the start date	Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 6 weeks from the start date	Receives a completed questionnaire and any supporting documents from the local planning authority	Sends the appellant and us a completed questionnaire and supporting documents. It writes to interested people about the appeal
Within 6 weeks from the start date (Only exceptionally will we accept late representations)	Send their representations to us	Sends us any further representations. These should relate only to issues raised by the questionnaire and any supporting documents	If the local planning authority decides not to treat the questionnaire and supporting documents as its representations it sends us its further representations
Within 9 weeks from the start date		Sends us their final comments on the local planning authority's representations and on any representations from interested people. If there is one, sends us a copy of the certified planning obligation. **No new evidence is allowed**	Sends us its final comments on the appellant's representations and on any representations from interested people **No new evidence is allowed**

E Hearings procedure

The Town and Country Planning (Hearings Procedure) (England) Rules 2000 (Statutory Instrument 2000/1626), as amended by The Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009 (Statutory Instrument 2009/455)

E.1 What is the process?

E.1.1 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. The hearing may include a discussion at the site or the site may be visited, on an accompanied (without any discussion), or unaccompanied basis.

E.1.2 Statutory parties[8] are entitled to appear at the hearing. Other interested people[9] can attend and may participate in the discussion at the discretion of the Inspector. Statutory parties and interested people may be legally represented but this is not essential.

E.1.3 The timetable for the hearing procedure is designed to enable the appeal to proceed quickly and fairly.

E.2 Fixing the date of the hearing

E.2.1 Where, taking account of the criteria set out in Annexe J, the appellant considers a hearing to be the most appropriate procedure, they should try to agree with the local planning authority at least 2 dates on which the hearing could take place. This should be done before making their appeal. For further information please see Annexe S.

E.3 The appellant

E.3.1 The appellant must ensure that we receive their planning appeal within the time limit which is usually within 6 months of the date of the notice of the local planning authority's decision unless the local planning authority has taken enforcement action in which case the time limit is shorter. For important information please see paragraph 2.4.

E.3.2 The appellant must send a copy of the planning application form and the local planning authority's decision notice with the appeal along with the other essential supporting documents detailed on the online and paper appeal forms. The appellant must copy the appeal to the local planning authority.

[8] Statutory parties are defined in The Town and Country Planning (Hearings Procedure) (England) Rules 2000 SI 2000/1626 (as amended).

[9] "Interested persons" being (a) any person notified or consulted in accordance with the Act or a development order about the application which has given rise to the appeal; and (b) any other person who made representations to the local planning authority about that application.

E.3.3 The appellant should fully disclose their case for planning permission to be granted by providing full grounds of appeal and any supporting evidence. For further information about grounds of appeal please see Annexe I.

E.4 Who tells statutory parties and interested people about the appeal?

E.4.1 Within 2 weeks of the start date the local planning authority must notify statutory parties and interested people:

- that an appeal has been made;
- that any representations made to the local planning authority in relation to the application will be sent to the Planning Inspectorate and the appellant and will be considered by the Inspector when deciding the appeal;
- how they can withdraw their earlier representations if they wish to do so;
- that further written representations may be sent to the Planning Inspectorate within 6 weeks of the start date (and give the address and email address to which any further representation should be sent);
- that the decision will be published on the Planning Portal.

E.4.2 We encourage local planning authorities to use the model notification letter on the Planning Portal: http://www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/onlineappealservicelpahelp/modelnotificationsforlpa

E.5. The appeal questionnaire and supporting documents

E.5.1 The local planning authority must send a completed copy of our questionnaire and copies of all of the documents referred to in it and any other relevant documents to support its decision, to us and to the appellant within 2 weeks of the start date of the appeal. The local planning authority must indicate on the questionnaire which appeal procedure it considers appropriate, taking account of the criteria (please see Annexe J). If this differs from that determined by us, we will review the procedure.

E.6 Statutory parties' and interested people's representations at the 6 week stage

E.6.1 Statutory parties and interested people can rely on the representations they made to the local planning authority at the application stage, as it will forward them to us and the representations will be taken into account by the Inspector.

E.6.2 If, having considered the appellant's grounds of appeal, a statutory party or an interested person wishes to make representations or further representations they should do so online through the Planning Portal using the search facility: http://www.planningportal.gov.uk/planning/appeals/online/search

or send 3 copies in writing to us. They should ensure that they are received with 6 weeks of the starting date. We will copy any representations received to the appellant and the local planning authority.

E.7 Who tells people about the hearing?

E.7.1 We will notify the appellant and the local planning authority and any statutory party of the date, time and place of the hearing and the name of the Inspector who will conduct it. We will ask the local planning authority to notify any other interested people.

E.8 Hearing statement at 6 weeks

E.8.1 The appellant and the local planning authority must send their hearing statement to us (2 copies if not sent electronically) ensuring we receive it within 6 weeks of the start date. We will copy documents to the other appeal party. We will inform the appellant and the local planning authority of the name and address of any statutory party who makes representations on the appeal as they must also send a copy to any statutory party who does this.

E.8.2 Hearing statements should be a succinct statement of the reasons for proposing or opposing the development. They should be concise and highlight where there are differences between the material supplied by the appellant in the grounds of appeal and the local planning authority in the material it supplied with the questionnaire. Any case law cited should include the full report reference. It should also outline the basis upon which any agreement that certain reasons for refusal have been resolved has been made.

E.8.3 The hearing statement conclusions should be briefly summarised at the end with appropriate references. The aim should be for the statement not to exceed 3,000 words.

E.8.4 If we receive the hearing statement after the deadline we will return it and it will not be seen by the Inspector. Appellants, local planning authorities and interested people should not try to "get around" the rules by taking late evidence to the hearing.

E.9 Acceptance of late hearing statement in exceptional circumstances

E.9.1 However if, exceptionally, a party feels that their hearing statement should be taken to the hearing and be taken into account, Inspectors do have discretion whether to accept late evidence.

E.9.2 Before deciding whether, exceptionally, to accept it, the Inspector will require:

- an explanation as to why it was not received by us in accordance with the rules; and
- an explanation of how and why the material is relevant; and
- the opposing party's views on whether it should be accepted.

E.9.3 The Inspector will refuse to accept late evidence unless fully satisfied that:

- it is not covered in the evidence already received; and
- that it is directly relevant and necessary for his or her decision; and
- that it would be procedurally fair to all parties (including interested people) if the late evidence were taken into account.

E.9.4 If the Inspector accepts late evidence this may result in the need for an adjournment and the other party may make an application for costs.

Timetable for the hearing procedure

Timetable	Interested people	Appellant	Local planning authority
Appeal received We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The grounds of appeal should make up the full case	Receives the appeal documents
Within 2 weeks from the start date	Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 6 weeks of the start date	Receives a completed questionnaire and any supporting documents from the local planning authority	Sends the appellant and us a completed questionnaire and supporting documents. It writes to interested people about the appeal
Within 6 weeks from the starting date (Only exceptionally will we accept late statements or representations)	Send their representations to us	Sends us their hearing statement	Sends us its hearing statement
We set the hearing date which will normally be within 12 weeks of the start date – or the earliest date after that period which is practicable			
At least 2 weeks before the date of the hearing	Receive details from the local planning authority about the hearing arrangements		Tells interested people about the hearing arrangements and may put a notice in a local paper about the hearing
No later than 10 working days before the hearing		If there is one, sends us the draft planning obligation	

F Inquiries procedure

The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 (Statutory Instrument 2000/1624)[10]; and The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 (Statutory Instrument 2000/1625)[11]; as amended by The Town and Country Planning (Hearings and Inquiries Procedures) (England) (Amendment) Rules 2009 (Statutory Instrument 2009/455)

F.1 What is the process?

F.1.1 An inquiry provides for the investigation into, and formal testing of, evidence, usually through expert witnesses. Parties may be formally represented by advocates. The site may be visited before, during or after the inquiry.

F.1.2 Statutory parties[12] are entitled to participate in an inquiry. Interested people[13] can attend and may participate in an inquiry at the discretion of the Inspector.

F.1.3 The timetable for the inquiry procedure is designed to enable the appeal to proceed quickly and fairly.

F.2 Fixing the date of the inquiry

F.2.1 Where, taking account of the criteria set out in Annexe J the appellant considers an inquiry to be the most appropriate procedure, they should try to agree with the local planning authority at least 2 dates on which the inquiry could take place. This should be done before making their appeal and the dates should be included with it. For further information please see Annexe S.

F.2.2 The appellant should include also the expected number of witnesses, topics to be addressed by witnesses, whether there will be legal representation and an estimate for the overall inquiry length.

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[10] The Inquiries Procedure Rules set out in Statutory Instrument 2000/1624 (as amended) are used for both planning appeals which are recovered for determination by the Secretary of State (recovered appeals) and planning applications called-in for determination by the Secretary of State. In these cases the Inspector reports with recommendations to the Secretary of State.

[11] The Inquiries Procedure Rules set out in Statutory Instrument 2000/1625 (as amended) are used for planning appeals transferred to be decided by an Inspector on behalf of the Secretary of State.

[12] Statutory Parties are defined in The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 Statutory Instrument 2000/1624 (as amended) and in The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000 Statutory Instrument 2000/1625 (as amended).

[13] "Interested persons" being (a) any person notified or consulted in accordance with the Act or a development order about the application which has given rise to the appeal; and (b) any other person who made representations to the local planning authority about that application.

F.2.3 The appellant should be realistic, the estimate should include time for opening and closing the inquiry, any sessions on conditions and any section 106 obligation and the time they consider may be necessary for questions to be put to both their and the local planning authority's witnesses. If the appellant has instructed a barrister it may be useful to get their views on the likely length of the inquiry.

F.2.4 We will take account of the estimates we receive from the appellant and the local planning authority and our own experience when we set the likely length of the inquiry. Once set we will expect the length of the inquiry to stay within the agreed timetable.

F.3 The appellant

F.3.1 The appellant must ensure that we receive their planning appeal within the time limit which is usually within 6 months of the date of the notice of the local planning authority's decision unless the local planning authority has taken enforcement action in which case the time limit is shorter. For important information please see paragraph 2.4.

F.3.2 The appellant must send a copy of the planning application form and the local planning authority's decision notice with the appeal along with the other essential supporting documents detailed on the online and paper appeal forms. The appellant must copy the appeal to the local planning authority at the same time as they send it to us.

F.3.3 The appellant should fully disclose their case for planning permission to be granted by providing full grounds of appeal and any supporting evidence. For further information about grounds of appeal please see Annexe I.

F.4 Bespoke timetabling

F.4.1 For inquiries:

- where the appeal was received before 19 August 2013 if the inquiry is expected to sit for 6 days or more; and
- where the appeal was received on or after 19 August 2013 if the inquiry is expected to sit for 3 days or more; and
- being held into a called-in planning application

we will invite the appellant/applicant and the local planning authority and any Rule 6 parties to agree a bespoke programme to cover the dates of the inquiry, the receipt of evidence and any pre-inquiry meeting. For further information please see Annexe G.

F.5 The appeal questionnaire and supporting documents

F.5.1 The local planning authority must send a completed copy of our questionnaire and copies of all of the documents referred to in it and any other relevant documents to support its decision, to us and to the appellant within 2 weeks of the start date of the appeal. The local planning authority must indicate on the questionnaire which appeal procedure it considers appropriate, taking account of the criteria (please see Annexe J). If this differs from that determined by us, we will review the procedure.

F.5.2 If the local planning authority agrees with the appellant and/or it considers that the case ought to be dealt with by inquiry, the expected number of witnesses, topics to be addressed by witnesses, time estimates for the overall inquiry length and the presentation of the local planning authority's case and whether there will be legal representation should be included with the questionnaire.

F.6 Who tells statutory parties and interested people about the appeal?

F.6.1 Within 2 weeks of the start date the local planning authority must notify statutory parties and interested people:

- that an appeal has been made;
- that any representations made to the local planning authority in relation to the application will be sent to the Planning Inspectorate and the appellant and will be considered by the Inspector when deciding the appeal;
- how they can withdraw their earlier representations if they wish to do so;
- that further written representations may be sent to the Planning Inspectorate within 6 weeks of the start date (and give the address and email address to which any further representation should be sent); and
- that the decision will be published on the Planning Portal.

F.6.2 We encourage local planning authorities to use the model notification letter on the Planning Portal:
http://www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/onlineappealservicelpahelp/modelnotificationsforlpa

F.7 Statutory parties' and interested people's representations at the 6 week stage

F.7.1 Statutory parties and interested people can rely on the representations they made to the local planning authority at the application stage, as it will forward them to us and the representations will be taken into account by the Inspector.

F.7.2 If, having considered the appellant's grounds of appeal, a statutory party or an interested person wishes to make representations or further representations they should do so online through the Planning Portal using the search facility:
http://www.planningportal.gov.uk/planning/appeals/online/search
or send 3 copies in writing to us. They should ensure that they are received with 6 weeks of the starting date. We will copy any representations received to the appellant and the local planning authority.

F.7.3 If any person notifies us of an intention to appear and give evidence at an inquiry we may require them (under Rule 6 (6) of the Inquiry Procedure Rules) to provide a statement of case. They should send their statement of case to us (3 copies if not sent electronically) and a copy to any statutory party within 4 weeks of us telling them to do this. We will copy the

statements of case to the local planning authority and the appellant (or applicant).

F.7.4 For further information please see "Guide to Rule 6 for interested parties involved in an inquiry - England" on the Planning Portal: http://www.planningportal.gov.uk/uploads/pins/guide_rule_6.pdf and paragraph F.11 which contains information about the statement of case.

F.8 Who tells people about the inquiry?

F.8.1 We will notify the appellant, the local planning authority and any statutory party of the date, place, time and length of the inquiry and the name of the Inspector who will conduct it. We will ask the local planning authority to notify any other interested people.

F.9 Pre-inquiry meeting or pre-inquiry note

F.9.1 A pre-inquiry meeting may be held to discuss the programming of the inquiry and other matters. We will give not less than 2 weeks written notice of a pre-inquiry meeting to:

- the appellant;
- the local planning authority;
- any statutory party;
- any other person known to be entitled to appear at the inquiry; and
- any other person whose presence at the meeting appears to the Inspector to be desirable.

F.9.2 The Inspector will normally issue a note of the meeting setting out agreed points.

F.9.3 Sometimes an Inspector may merely issue pre-inquiry notes rather than holding a pre-inquiry meeting. These may set out matters which the Inspector wants the parties to address and may also set out a provisional timetable to which the parties will be expected to keep.

F.10 Statement of common ground

F.10.1 As required by the Inquiry Procedure Rules, the appellant (or applicant in called-in cases) and the local planning authority must prepare the statement of common ground together, and ensure that we and any statutory party receive a copy of it within 6 weeks of the start date. The appellant/applicant is expected to send it to us.

F.10.2 A statement of common ground is essential to ensure that the evidence at an inquiry focuses on the material differences between the appellant and the local planning authority. It will provide a commonly understood basis for the appellant and the local planning authority to inform the statements of case and the subsequent production of proofs of evidence. This should lead to an improvement in the quality of the evidence and a reduction in the quantity of material which needs to be considered.

F.10.3 If there are any Rule 6 parties they can be involved in producing the statement. For further information please see the "Guide to Rule 6 for interested parties involved in an inquiry- England" on the Planning Portal: http://www.planningportal.gov.uk/uploads/pins/guide_rule_6.pdf

F.10.4 The statement of common ground should clearly identify matters that are agreed between the appellant/applicant and the local planning authority followed by matters that are in dispute. This means that the other documents and the inquiry can focus on the areas still at issue. The statement should:

- be a single document, compiled and signed by the main parties;
- be concise and not duplicate information already sent – by anyone;
- describe the site, the surrounding area and important features, and the planning history. If appropriate, photographs of the site and the surrounding area should be included;
- explain revisions or amendments to the original proposal and confirm if they were agreed at application stage[14];
- include a list of the agreed plans and drawings on which the Inspector will be asked to base his or her decision and which were considered at application stage;
- include a list of agreed and/or shared core documents, ministerial statements, and policies and references to any relevant passage of the National Planning Policy Framework "the Framework";
- include relevant statutory and emerging development plan policies, their status and the suggested weight to be attached to them and Supplementary Planning Guidance and Supplementary Planning Documents;
- identify and provide the reference number(s), of any relevant appeal decisions, relating to the site or neighbouring sites;
- identify whether there is/is not agreement over measurements, identify agreed elements of the evidence and any technical studies that have been undertaken;
- include a list of suggested conditions (agreed and not agreed) which should meet the tests in Circular 11/95 and include the reasons why the conditions are suggested;
- say if the appellant and the local planning authority agree that any of the reasons for refusal can be resolved by conditions;
- where case law is cited, include the full Court report/transcript;
- say if there is a draft planning obligation which would satisfactorily address one or more of the reasons for refusal. For further information please see Annexe M.

[14] This advice relates only to amendments made before a local planning authority issued a decision. Any "appeal stage" amendments will be at the discretion of the Secretary of State/Inspector in light of Wheatcroft considerations (see Annexe L) so any references in a statement of common ground to a jointly agreed amended drawing should be made on that understanding.

F.10.5 There is a statement of common ground form available on the Planning Portal:
http://www.planningportal.gov.uk/uploads/pins/statement_common_ground.pdf
Appellants can complete that form, save it to their computer and email to the other party and, when finalised, to us.

F.11 Statement of case

F.11.1 In a transferred appeal the appellant and the local planning authority must send their statement of case (2 copies if not sent electronically) to us ensuring it is received within 6 weeks of the start date. We will inform the appellant and the local planning authority of the name and address of any statutory party who makes representations on the appeal as they must also send a copy to any statutory party.

F.11.2 However, where in a called-in or recovered case the Secretary of State has arranged for a pre-inquiry meeting to be held (under Rule 5), the local planning authority, the applicant (in a called-in case) or appellant (in a recovered case) must send their statements of case to us ensuring it is received within 4 weeks of its conclusion. Where a pre-inquiry meeting is called by the Inspector (under Rule 7) the statements should be received within 6 weeks of the start date, or as agreed in the bespoke timetable.

F.11.3 A statement of case:

- must include a list of documents, maps and plans the appellant intends to rely on;
- should describe, but not contain, the evidence;
- should refer to any policies or other documents not referred to by the local planning authority but considered to support an appellant's case;
- should not, normally, in the local planning authority's statement introduce additional policies;
- should set out briefly both the planning and legal arguments which a party intends to put forward at the inquiry;
- should cite any statutory provisions and case law they intend to use in support of their arguments;
- should briefly describe any suggested mitigating factors;
- should focus on the areas of differences - as the areas of agreement will be in the statement of common ground.

F.12 What are "proofs of evidence"?

F.12.1 The term "proofs of evidence" is used in the Inquiries Procedure Rules and refers to the document containing the written evidence about which a person appearing at a public inquiry will speak.

F.12.2 It should:

- include the information that witnesses representing the appellant, or the local planning authority wish the Inspector to take into account;
- revisit the suggested conditions set out in the statement of common ground;

- cover only areas which remain at issue and should not include new areas of evidence or arguments;
- contain concisely expressed argument and evidence supported by technical appendices;
- where case law is cited include the full Court report/transcript reference and cross refer to a copy of the report/transcript;
- include any data referred to, and outline any assessment methodology and the assumptions used to support the arguments;
- not repeat or quote national or local policy, but should provide policy name and paragraph numbers;
- not include long irrelevant biographical detail of the witness;
- not omit necessary detail.

F.12.3 The evidence of each witness should address distinct topics and not overlap another's.

F.12.4 Witnesses and their advocates should limit the length of proofs. If the proof exceeds 1,500 words it should be accompanied by a summary. It is normally only the summaries that will be read out at the inquiry.

F.12.5 Summaries should concentrate on the main points at issue. They should not introduce new or different evidence nor go beyond the scope of the text they summarise. It may sometimes be difficult to summarise complex technical evidence effectively, and the above advice is not intended to prevent witnesses properly explaining their evidence. Successful summaries of complex evidence will help make the salient points clearer to the interested parties, as well as saving time.

F.12.6 Before the inquiry Inspectors may direct the manner in which they wish to receive evidence which may include giving further advice about the length of proofs.

F.12.7 If the proof of evidence includes evidence given by an expert witness please see Annexe N.

F.13. Acceptance of late documents in exceptional circumstances

F.13.1 If we receive a document after the deadline we will return it and it will not be seen by the Inspector. Appellants, local planning authorities and interested people should not try to "get around" the rules by taking late evidence to the inquiry.

F.13.2 However if, exceptionally, a party feels that an inquiry document we returned, because it was received after the deadline, should be taken to the inquiry and be taken into account, Inspectors do have discretion whether to accept late evidence.

F.13.3 Before deciding whether, exceptionally, to accept it, the Inspector will require:

- an explanation as to why it was not received by us in accordance with the rules; and

- an explanation of how and why the material is relevant; and
- the opposing parties' views on whether it should be accepted.

F.13.4 The Inspector will refuse to accept late evidence unless fully satisfied that:

- it is not covered in the evidence already received; and
- that it is directly relevant and necessary for his or her decision; and
- it would be procedurally fair to all parties (including interested people) if the late evidence were taken into account.

F.13.5 If the Inspector accepts late evidence this may result in the need for an adjournment and the other party may make an application for costs.

Timetable for the inquiry procedure

Timetable	Interested people	Appellant	Local planning authority
Appeal received or an application is called-in We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The grounds of appeal should make up the full case. Or is told that the application has been called-in	Receives the appeal documents or is told that the application has been called-in
Within 2 weeks from the start date	Receive the local planning authority's letter about the appeal, (or that an application has been called-in) telling them that they must send us any representations within 6 weeks of the start date	Receives a completed questionnaire and any supporting documents from the local planning authority	Sends the appellant or applicant) and us a completed questionnaire and supporting documents. It writes to interested people about the appeal (or the called-in application)
Within 6 weeks from the starting date (Only exceptionally will we accept late statements or representations)	Send their representations to us	Sends us their inquiry statement and the statement of common ground that they have agreed with the local planning authority	Sends us its inquiry statement
We set the inquiry date which will normally be within 20 – 22 weeks of the start date			
4 weeks before the inquiry		Sends us their proof of evidence.	Send us its proof of evidence. It may put a notice in a local paper about the inquiry
At least 2 weeks before the inquiry	Receive details from the local planning authority about the inquiry arrangements	Displays a notice on site giving details of the inquiry	Notifies interested people about the inquiry arrangements
No later than 10 working days before the inquiry		If there is one, sends us the draft planning obligation	

G Cases following a bespoke timetable

G.1 Background

G.1.1 The inquiry process is governed by the Inquiries Procedure Rules which set out the fixed points at which action must be taken and/or documents must be sent to/received by us.

G.1.2 However, for longer, more complex inquiries this approach is not necessarily the best way to deal with a case. Therefore using the flexibility provided in the Rules we are able to manage certain cases on a bespoke timetable.

G.1.3 Currently, we do this only for planning applications which have been called-in under section 77 of the Act (please see Annexe A) and appeals under section 78. It is our decision whether a case follows a bespoke timetable.

G.1.4 A bespoke timetable will generally be required for inquiries:

- where the appeal was received before 19 August 2013 if the inquiry is expected to sit for 6 days or more; and
- where the appeal was received on or after 19 August 2013 if the inquiry is expected to sit for 3 days or more; and
- being held into a called-in planning application

G.2 General principles

G.2.1 Before an appellant makes an appeal that they think is likely to sit for 3 or more days or as soon as an applicant knows that their application is likely to be called-in, they should discuss a draft bespoke timetable with the local planning authority and all other parties who have the right to appear (including any Rule 6 parties where they are known at that time). Please see Annexe F paragraph 7.3 and for further information please see our "Guide to Rule 6 for interested parties involved in an inquiry": http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess

G.2.2 Parties must work constructively to identify mutually acceptable dates within the timetable and must not try to gain a "tactical advantage". This requires close liaison and co-operation at all stages. Parties should be confident that they can keep to the timetable.

G.2.3 The appellant and the local planning authority should try to agree a bespoke timetable before the appellant makes their appeal and it should be provided to us when the appeal is made.

G.2.4 If it is not apparent why an extended bespoke timetable is being proposed, or we are not satisfied that one is justified, we may not agree to the proposed timetable.

G.2.5 If an application is called-in for the Secretary of State to decide, or the local planning authority has not made a decision, the opportunity to discuss a bespoke timetable may be limited. Applicants/appellants should make every effort to discuss and agree with the local planning authority a timetable as soon as possible.

G.2.6 If the parties cannot agree a bespoke timetable with us we may impose one. In applying the bespoke process we will always have full regard to the fairness of the process to all parties' interests.

G.2.7 Inquiry dates agreed as part of a bespoke timetable may not always meet the 20 or 22 weeks target as given in the Inquiries Procedure Rules. However, if it is suggested that it should be later the proposed date should be as close as possible to 20 or 22 weeks.

G.2.8 Similarly, it may be that the parties propose to vary the timing of the receipt of documents. This should not substantially extend the overall timescale of the appeal.

G.2.9 Where an inquiry is scheduled for fewer than 3 days and then

- a pre-inquiry meeting is required; or
- an environmental statement is required; or
- other circumstances become apparent;

with the agreement of the appellant and the local planning authority, we may transfer the case to a bespoke timetable.

G.3 Complying with a bespoke timetable

G.3.1 We expect the parties to comply with a bespoke timetable so all parties must co-operate to ensure that it is met. Where, exceptionally, a party wishes to vary an element of the timetable, it should normally first try to obtain the agreement of the other main party, or parties, before proposing the variation to us. In considering the request we will need to be sure that:

- no other parties' interests would be unreasonably prejudiced; and
- it would not result in a need to rearrange an inquiry.

G.3.2 Failure to keep to a bespoke timetable which has caused another party unnecessary or wasted expense could result in a claim for costs against the offending party being upheld.

G.4 The decision

G.4.1 We will undertake to ensure that:

- in cases that are determined by an Inspector, the date by which the decision will be issued will be notified to parties within 4 working days of the closure of the inquiry; or
- in cases that are determined by the Secretary of State the date by which the report will be submitted to the Secretary of State will normally be notified to the parties within 10 working days of the closure of the inquiry.

H Communicating electronically with us

H.1 Why work electronically?

H.1.1 We encourage and support all parties to work electronically with us both through the facilities available online at the Planning Portal and by email to our casework teams.

H.1.2 Making an appeal and sending documents electronically offers a flexible and environmentally friendly way of working for all parties. It is also in keeping with Government policy and rising public demand. However, there will be exceptions where documents are best presented in hard copy.

H.1.3 Anyone who intends to use our online facilities should please:

- check that their computer is compatible with our online facilities; and
- check that the system will be available when they want to use it.

H.2 Technical compatibility (Online facilities)

H.2.1 To access published documents and guidance, users will need Adobe Acrobat Version 6 or above, but we recommend at least Version 7. The latest version can be downloaded free from the Adobe website: http://get.adobe.com/uk/reader/

H.2.2 We recommend the use of either Internet Explorer or Firefox when using our online facilities. We try to make our online facilities as accessible as possible by testing against the most popular browsers – currently Google Chrome, Internet Explorer and Firefox. However, the world of internet browsers is changing all the time, so we cannot guarantee that users will always have a 'browser issue' free experience.

H.3 Settings

- Users' internet browser must have JavaScript enabled, which is usually the default setting.
- If users have a pop-up blocker, they should set it to allow pop-ups from our site.
- Users should ensure that the web address (URL) for the Planning Portal is NOT added to the IE proxy server exceptions. Note - This is normally only applicable to corporate networks.

H.4 Other computers, operating systems and browsers

H.4.1 Users may be able to access the services using other combinations.

H.5 What can be sent to us electronically?

H.5.1 The following types of appeal can be made online:

- Householder appeals
- Planning appeals

- Listed Building Consent and Conservation Area Consent appeals
- Enforcement notice appeals
- Listed Building and Conservation Area enforcement notice appeals
- Lawful development certificate appeals
- Advertisement consent and discontinuance notice appeals.

We do not currently provide a facility to make new appeals by email.

H.5.2.1 Local planning authority staff can complete questionnaires online relating to:

- Householder appeals
- Planning/Listed Building Consent/Conservation Area Consent appeals
- Enforcement notice appeals
- Listed Building enforcement/Conservation Area enforcement notice appeals
- Lawful development certificate appeals.

H.5.2.2 The questionnaires are available using the search facility on the Planning Portal:
www.planningportal.gov.uk/planning/appeals/online/search
Local planning authority staff will need to search for the relevant appeal and will find the link to the questionnaire on the Case Summary screen.

H.5.2.3 The Essential Supporting Information (ESI) form issued by the Case Officer for advertisement appeals should be completed and returned to the Case Officer's team email address.

H.5.2.4 Applicants/appellants, agents, local planning authority staff involved in a called-in application or an appeal can send documents to us that are required as part of the process eg:

- statement of case;
- statement of common ground;
- proof of evidence, and any supporting appendices;
- environmental statement.

However, we may ask for 1 or 2 printed copies of anything submitted online to ensure that documents used, at inquiries in particular, are formatted/printed in a consistent form for reference by all parties. If we ask for a hard copy(s), the party supplying the document must confirm when they send it that it is a 'true copy' of the electronic document already sent to us.

H.5.2.5 Anyone interested in an appeal or a called-in application can send their representations about the proposal. Note - This does not apply to householder appeals as the procedure only allows for representations to be made at application stage.

H.5.2.6 This can be done online using the search facility on the Planning Portal:
www.planningportal.gov.uk/planning/appeals/online/search

H.5.2.7 Alternatively, documents can be sent by email to the team email address for the Case Officer handling the appeal or called-in application. This can be found at the top of any letter from us about the case, or on the Case Summary screen accessed through the online search facility.

H.6 How to send a document online

H.6.1 Step by step help with making an appeal, sending a questionnaire, required document(s) or representations online, can be found in our online tutorials:
www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/

H.7 Do's and Don'ts

<table>
<tr><th></th><th>DO</th><th>DO NOT</th></tr>
<tr><td>Formats</td><td>☑ Use an acceptable format:
<table>
<tr><td>.pdf</td><td>Portable Document Format (PDF) RECOMMENDED</td></tr>
<tr><td>.doc</td><td>Microsoft Word (but not .docx format) RECOMMENDED</td></tr>
<tr><td>.tif/.tiff</td><td>Tagged Image Format</td></tr>
<tr><td>.jpg</td><td>Joint Photographic Experts Group (JPEG)</td></tr>
<tr><td>.zip</td><td>Compressed archive file</td></tr>
</table></td><td>☒ Use an unacceptable format:
<table>
<tr><td>.xls</td><td>Microsoft Excel</td></tr>
<tr><td>.docx</td><td>Microsoft Word (but .doc <u>is</u> acceptable)</td></tr>
<tr><td>.dwg.
.dgn,
.dxf</td><td>CAD formats
(Note - most CAD packages can produce files in acceptable .pdf format)</td></tr>
<tr><td>.html</td><td>Hypertext markup language</td></tr>
</table></td></tr>
<tr><td></td><td>☑ Convert CAD documents to .pdf</td><td>☒ Convert images from .jpg to .pdf</td></tr>
<tr><td>Formatting</td><td>☑ Use page numbering.</td><td>☒ Use 'redline' or track changes.</td></tr>
<tr><td>Security</td><td>☑ Remove any document security and enable macros if necessary.</td><td>☒ Use password protection, format as 'read only' or disable printing.</td></tr>
<tr><td>Copyright</td><td>☑ Ensure you have the owner's permission and have paid any copyright licence fee before sending in documents.
See also Ordnance Survey below in relation to maps.</td><td></td></tr>
<tr><td>File sizes</td><td>☑ Keep each file as small as possible
• if working online, up to 5MB;
• if sending an email, up to 10MB.
Break down long documents into separate files, in particular send appendices as separate documents.
☑ Minimize the use of colour.
☑ Use any file compression facilities within your software to make each file smaller, provided that you use one of the acceptable file types.</td><td>☒ Attach any files larger than 5MB to our online forms.
If you do, the online submission will NOT work.
☒ Attach any files larger than 10MB to an email.
If you do, the email may not reach us.</td></tr>
<tr><td>Fonts</td><td>☑ Our preferred font is Verdana, but other fonts that come as part of your 'out of the box' software should be acceptable.</td><td>☒ Use software specific fonts.
☒ Use fonts you have downloaded and added to your system.</td></tr>
<tr><td>Scanning</td><td>☑ Ensure documents are complete and legible.</td><td>☒ Scan more than one document into a single file.</td></tr>
</table>

	DO	DO NOT
	☑ Use black and white unless colour is essential.	
Images	☑ Send pictures, photographs, plans, maps or drawings as individual files.	☒ Use bitmap images as they are very large.
File names	☑ Ensure all documents have descriptive names including the type of document you are sending eg *'Proposed plan 1 March 2013'.*	
	☑ Number appendices and submit them as separate documents. Ensure the first page includes the appendix number. Name them to indicate what they form part of, and their sequence eg *'Appeal statement Appendix 2 Traffic census'*.	
	☑ Use 'Part 1', 'Part 2' etc in the file name if you have split up a large document eg *'Appeal statement Appendix 1 Environmental Assessment Part 1 of 3'*.	
	☑ Include the required paper size in the document name for plans and drawings eg *'Proposed plan A3 size 1 March 2013'.*	
	☑ Include scale bar(s) on all plans and drawings.	
Hyperlinks		☒ Use hyperlinks to a website page containing multiple documents or links. ☒ Use hyperlinks within documents you send– download such documents yourself and attach them separately.
Sending online	☑ Contact us if you have any queries or you think there may have been a problem. See 'Contacting us".	☒ Wait any longer than 5 minutes for anything to get through to us. Do not try again - check with us first.
	☑ Keep a record of your appeal number from the online receipt screen and follow the link on the on-screen receipt to access a copy of what you sent us. Save a copy for your own records.	☒ Send in paper copies of anything you sent to us online, unless we ask for them.
	☑ You should send all required documents at the time of making your appeal. Where this is not possible, you must send us any documents marked 'To follow', as soon as possible preferably by email to appeals@pins.gsi.gov.uk. The documents will be listed on the copy of what you sent us.	

	DO	DO NOT
	☑ You must send a copy of any new online appeal to the local planning authority, by email or post at the time of sending your appeal to us.	
Sending emails	☑ Quote the appeal reference or the appellant's name, site address and local planning authority name in the subject line or in the body of your email.	
	☑ Include your daytime phone number in the email.	
	☑ If you are attaching more than one document, please list them in the covering email.	
	☑ If you are sending a series of emails, include '1 of 5', '2 of 5' etc in the subject line of the email, so we know how many to expect and can check with you if any appear to be missing.	
	☑ Send appeal related emails to the address at the top of any correspondence you have from us, or to enquiries@pins.gsi.gov.uk	
	☑ Set up an email 'read' receipt for anything you send us, and keep that receipt. Contact us if you are not sure if your email reached us.	

H.8 Important

H.8.1 The appellant must send us all essential documents required to validate a new appeal within the time limit, and in the correct form (ie so that it follows the guidelines above), or we may decide that the appeal is invalid. We will not send a reminder for any missing documentation.

H.8.2 Before the appellant finally sends us their form, we strongly recommend that they use the 'Save' facility in case of problems that prevent it getting to us.

H.8.3 We also recommend that once the on-screen receipt is displayed, confirming we have received the appeal, the appellant opens the copy of their form using the link provided (see paragraph H.9 below). They can then check it to ensure that it is correct, and let us know if there are any issues.

H.8.4 The appellant must send a copy of the pdf the system provides of their appeal to the local planning authority. The list of email addresses for local planning authorities who will accept their copy of an appeal form by email can be found at: www.planningportal.gov.uk/planning/appeals/online/tutorialshelp/appeal/sendingacopytothecouncil

H.9 What happens after the online facilities are used?

H.9.1 When a party sends us a new appeal, a questionnaire, a document or representations online, they will get an on-screen receipt to confirm that we have received it. We advise users to keep/print a copy of that receipt.

H.9.2 There will also be a link from the receipt so that users can download a copy of what they sent us.

H.9.3 If users do not get an on-screen receipt after 5 minutes, please contact us to report the problem.

H.10 What happens after I send you an email?

H.10.1 When users send anything by email they will also get an acknowledgement, provided that it is sent to:
appeals@pins.gsi.gov.uk
or to a team email address (which can be found at the top of letters from us about the appeal). If users do not get one they should contact us.

H.11 System availability

H.11.1. Our online facilities will usually be available 24 hours a day. We will sometimes need to take the system out of service for a while to implement upgrades. Wherever possible we will do this outside usual office hours.

H.11.2 All planned downtime for the online appeals service will be advertised on the 'Availability' page on the Planning Portal:
www.planningportal.gov.uk/planning/appeals/online/about/pcsavailability
Sometimes the Planning Portal itself may also be unavailable because of upgrades/updates.

H.12 Ordnance Survey

H.12.1 People may only scan an Ordnance Survey map if they:

- have an annual licence to make copies; or
- have purchased a bulk copy arrangement; or
- are using a local planning authority-supplied map under the 'map return scheme' (for which a fee is normally payable at the local planning authority's discretion), or
- have purchased the site-specific map from the Planning Portal for the purposes of attaching to a planning application, appeal or representation.

H.12.2 More information on map licensing is available on the Ordnance Survey website:
http://www.ordnancesurvey.co.uk/oswebsite/licensing/

I Grounds of appeal

I.1 What should be in the grounds of appeal?

I.1.1 Appellants should ensure that, at the time they make their appeal, their grounds of appeal are clear, precise and provide full disclosure of the details of their case and the arguments being put forward. This will ensure:

- that we will be able to make an informed decision on the appeal procedure; and
- all other parties (including interested people) viewing the appeal documents will be fully aware of the arguments and issues from the start and will be able to make informed comment by the 6 week deadline.

I.1.2 The appellant should not withhold information at an early stage, so as to attempt to introduce additional evidence and/or reasoning at a later stage.

I.1.3 Grounds of appeal should:

- only cover the planning merits of the case. In most cases the personal circumstances of the appellant are not a planning consideration;
- explain clearly why the appellant disagrees with each of the reasons for refusal and respond to any objections made by others;
- address all relevant development plan policies and other relevant issues. These may not only be those that formed the reasons for refusal but may for example include those raised independently by interested people and/or statutory consultees, where they appear relevant;
- explain why the proposed development would either satisfy the development plan policies/supplementary planning documents or why they are not relevant;
- include any certified or draft (as appropriate) planning obligation under section 106 of the Town and Country Planning Act 1990;
- include the full report reference if any case law is cited;
- not contain excessive detail of the site. The Inspector will observe details at the site visit;
- not include a history of the application;
- not include repetitive email trails.

I.1.4 If the local planning authority has failed to make a decision it is helpful if the appellant sets out in detail why they consider that permission should be granted.

J Criteria for determining the procedure for planning appeals[15]

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/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 environmental impact assessment is not in dispute.

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 issues 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 local planning authority 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

[15] These criteria were Ministerially approved in 2009

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.

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 local planning authority is in the best position to indicate that a hearing or inquiry may be required in such circumstances.

K Can a proposed scheme be amended?

K.1 Making a new application

K.1.1 If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. The local planning authority should be open to discussions on whether it is likely to view an amended scheme favourably.

K.2 If an appeal is made

K.2.1 If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

K.2.2 Where, exceptionally, amendments are proposed during the appeals process the Inspector will take account of the Wheatcroft Principles when deciding if the proposals can be formally amended. In the 'Wheatcroft' judgment[16] the High Court considered the issue of amendments in the context of conditions and established that "the main, but not the only, criterion on which judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation". It has subsequently been established that the power to consider amendments is not limited to cases where the effect of a proposed amendment would be to reduce the development[17].

K.2.3 Whilst amendments to a scheme might be thought to be of little significance, in some cases even minor changes can materially alter the nature of an application and lead to possible prejudice to other interested people.

K.2.4 The Inspector has to consider if the suggested amendment(s) might prejudice anyone involved in the appeal. He or she may reach the conclusion that the proposed amendment(s) should not be considered and that the appeal has to be decided on the basis of the proposal as set out in the application.

[16] *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]. This decision has since been confirmed in *Wessex Regional Health Authority v SSE* [1984] and *Wadehurst Properties v SSE & Wychavon DC* [1990] and *Breckland DC v SSE and T. Hill* [1992].
[17] See *Breckland DC* v. Secretary of State for the Environment (1992) 65 P&CR.34.

L Can there be new material during an appeal?

L.1 The importance of ongoing discussion

L.1.1 Ongoing discussion between the applicant and the local planning authority should ensure that the applicant has the opportunity to respond to any issues/concerns before the local planning authority's decision is made. This will mean that there should be no unexpected issues raised by that decision, so normally there will be no need for new material to be provided at appeal stage.

L.1.2 However, sometimes the appellant or the local planning authority will feel that new evidence needs to be considered because:

- it is in direct response to unexpected issues raised by the local planning authority's decision; or
- it is in direct response to unexpected evidence in the appellant's appeal representations/grounds of appeal.

L.1.3 In these circumstances any response should be sent to us as soon as possible and within the prescribed timescales.

L.2 Changed circumstances

L.2.1 If:

- a decision has been made on a local similar development since the appealed application was decided, (either by the local planning authority or on appeal);
- there has been a change in circumstances (eg new or emerging legislation or national or local policy) since the local planning authority's decision (see paragraph 1.8);

the local planning authority must alert us to the decision or the change in circumstances. The appellant may also do this.

L.2.2 If, exceptionally, any party provides new evidence at appeal stage this may lead to:

- delay – so that we can give the other party or interested people the opportunity to comment; and/or
- additional expense by another party who may make an application for costs.

M Planning obligations

M.1 Introduction

M.1.1 Planning obligations in connection with planning appeals and called-in planning applications (please see Annexe A) comprise both agreements and unilateral undertakings (section 106 of the Town and Country Planning Act 1990 "the Act" as amended). In this annexe where it refers to the Inspector, it should be taken to mean the Secretary of State for called-in planning applications and recovered appeals (please see Annexe B).

M.1.2 This annexe provides good practice advice to guide applicants/appellants in preparing planning obligations. It should be read alongside Government policy on the use of planning obligations in the Framework and guidance in the Department for Communities and Local Government's Planning Obligations: Practice Guidance (July 2006), albeit the latter document contains references to the now replaced Circular 05/2005 Planning Obligations. Also the Law Society has published a second edition of its model section 106 agreement (June 2010).

M.1.3 A glossary of legal and technical terms is at Appendix M.1. Guidance on Execution of a Deed is at Appendix M.2.

M.2 Deadline for receipt of planning obligations

Written representations cases

M.2.1 If the appellant intends to send a planning obligation and wants to be certain that it will be taken into account by the Inspector they must make sure that it is executed and a certified copy is received by us no later than 9 weeks from the start date.

M.2.2 Planning obligations received after this date will be taken into account only at the Inspector's discretion as he or she will not delay the issue of a decision to wait for an obligation to be executed, unless there are very exceptional circumstances.

Hearing and inquiry case

M.2.3 If the appellant intends to send a planning obligation they should make sure that a final draft, agreed by all parties to it, is received by us no later than 10 working days before the hearing or inquiry opens. The Inspector's and other parties' ability to prepare for the hearing or inquiry is likely to be significantly hampered if this deadline is not met.

M.2.4 We ask for a final draft, rather than an executed planning obligation, to allow for the possibility that the wording may need to be changed as a result of discussion and examination during the hearing or inquiry. Nonetheless the planning obligation should normally be executed before the hearing or inquiry closes, without the need for an adjournment. However if that is not practicable the Inspector will agree the details for the

receipt of the executed planning obligation with the appellant/applicant and the local planning authority at the hearing or inquiry.

M.3 Justifying the need for the planning obligation

M.3.1 Regulation 122 of the Community Infrastructure Levy Regulations 2010 Statutory Instrument 2010/948, makes it unlawful for any planning obligation (capable of being charged a Community Infrastructure Levy) to be taken into account in determining a planning application if it does not meet the 3 tests set out in the Regulation. The Inspector will need to assess whether these tests are met by a planning obligation, even where the parties are satisfied with it. The parties should ensure that they provide the necessary evidence to enable this assessment to be made. Inspectors will not take into account any obligations, including standard charges or formulae, which do not meet one or more of the statutory tests.

M.3.2 The Framework sets out at paragraph 204, 3 policy tests which mirror the tests in the Regulations.

M.3.3 The following evidence is likely to be needed to enable the Inspector to assess whether any financial contribution provided through a planning obligation (or the local planning authority's requirement for one) meets the tests:

- the relevant development plan policy or policies, and the relevant sections of any supplementary planning document or supplementary planning guidance;
- quantified evidence of the additional demands on facilities or infrastructure which are likely to arise from the proposed development;
- details of existing facilities or infrastructure, and up-to-date, quantified evidence of the extent to which they are able or unable to meet those additional demands;
- the methodology for calculating any financial contribution necessary to improve existing facilities or infrastructure, or provide new facilities or infrastructure, to meet the additional demands;
- details of the facilities or infrastructure on which any financial contribution will be spent.

M.4 Format of the planning obligation

M.4.1 All parts of the planning obligation, including the signatures, should follow in sequence without gaps. The signatures should preferably not start on a new page. The planning obligation should be securely bound and its pages should be numbered.

M.4.2 Any manuscript alterations to the text must be initialled by all the parties. Any documents or plans which are annexed to the planning obligation must be clearly identified in the text (by document title and date or drawing number) and any plans which are identified must be attached. Any plans must be signed by all the parties and any colouring of plans must match the description given in the text. If any plan is found to be inaccurate

or missing, the planning obligation will need to be re-executed with the correct plan(s) attached.

M.4.3 The original planning obligation should be held by an officer (a solicitor) of the enforcing planning authority – it should not be sent to us as we destroy hard copy case files after 1 year. A copy should be sent to us with a signed statement by that officer certifying that it is a true copy of the original.

M.5 Parties to the planning obligation

M.5.1 Under section 106(1) of the Act, any person interested in the land may enter into a planning obligation. Persons can only bind their own interest and any successors in title to that interest. Normally, therefore, all persons with an interest in land affected by a planning obligation – including freeholder(s), leaseholder(s), holders of any estate contract(s) and any mortgagees – must sign the obligation. Where there are different ownerships it may be necessary to define them by reference to a plan.

M.5.2 The planning obligation must give details of each person's title to the land. This should be checked by the local planning authority, and in hearing and inquiry cases the Inspector will ask for its assurance. In written representations cases, and in cases where the local planning authority is unable to give an assurance, the applicant or appellant will need to provide evidence of title to the Inspector. Normally this is in the form of an up to date copy entry or entries from the Land Registry.

M.5.3 Where a developer has only an option to purchase the land, the current landowner(s) will need to be party to any obligation binding the land.

M.5.4 Counterpart documents are legal documents identical in all respects except that each is signed by a different party or parties. This is not appropriate to planning obligations, since these are public law documents which are entered on the planning register and the local land charges register and are often copied to residents and other interested people. The planning obligation should be one single document executed by all the relevant parties.

M.5.5 There may be exceptional circumstances where it is agreed in advance by the parties that counterparts are the only practical option. In these cases, both the Inspector and the local planning authority should be satisfied that certified copies of all of the individually signed documents have been provided (by a solicitor or other suitably legally qualified person).

M.6 Content of the planning obligation

<u>General points</u>

M.6.1 It should provide clear and concise definitions for frequently-used terms and use consistent terminology throughout.

M.6.2 The planning obligation must be dated, signed by all the parties to it, and executed as a deed. For details of how to achieve execution as a deed, see Appendix M.2.

M.6.3 The planning obligation must identify:

- the land to which it relates (by a plan if necessary); and
- the parties to the obligation, by names and addresses, and their relevant interest in the land. If a party is an offshore company it must give an address for service of documents in the UK.

M.6.4 It must state:

- that it is a planning obligation and name the planning authority by which it is enforceable;
- that it comes into effect upon the grant of planning permission – even if the actions required by the obligation are triggered by subsequent events, such as commencement of the development;
- precisely the requirements which it imposes on the party or parties giving the covenant(s) in sufficient detail (including the parts of the land to which they are to apply, where relevant) to make them enforceable; and
- that any financial contributions are to be paid to the local planning authority or (by a suitably worded provision in the deed) any other relevant authority responsible for the provision of the particular public services to which the contributions apply.

M.6.5 It might be necessary to define by reference to a plan the proposed site(s) of particular facilities (eg open space) to be provided, or the detailed specification of the purposes to which particular financial contributions are to be put (including any time limits, quality checks, etc. which are to be applied).

M.6.6 It must make it clear when each of its requirements is triggered and whether there are any conditions affecting the performance of that requirement. For example, it should make it clear whether some other event needs to occur, or formal notice needs to be given, before a financial contribution becomes payable; or whether the terms of a transfer of land need to be agreed before affordable housing or some other community benefit is delivered.

<u>Requirements imposed by unilateral undertakings</u>

M.6.7 If using the unilateral undertaking form of obligation, it is acceptable for it to set out the conditions under which any financial contribution may be made – such as the purpose for which it may be used and the timing or phasing of the payments.

M.6.8 However, a unilateral undertaking should not try to impose requirements or obligations on any person other than the signing party eg it would not be acceptable to try to require a Registered Provider to exchange contracts within a set period.

M.7 Modifying or discharging planning obligations

M.7.1 A deed executed under section 106 cannot provide for its own modification or discharge after a given period or in given circumstances.

M.7.2 Planning obligations, whether section 106 agreements or unilateral undertakings, can usually only be modified or discharged under section 106A of the Act[18]. Section 106A enables modification or discharge to be achieved either by an agreement with the local planning authority (which must be executed as a deed), or by an application to the local planning authority.

M.7.3 Periods within which applications to modify or discharge an obligation can be made, are as follows:

- for obligations entered into on or before 6 April 2010 – an application can be made at any time;
- for obligations entered into after 6 April 2010 – an application can be made after 5 years beginning with the date the obligation has been entered into to.

M.7.4 There is a right of appeal under section 106B if any application is refused.

M.7.5 Great care should be taken in preparation, before executing a unilateral undertaking, so as to avoid any need to modify it subsequently. However, sometimes during the course of an appeal it becomes clear that changes are required to an executed unilateral undertaking to ensure that it will deliver what is intended. The strong preference is for this to be done by an agreement with the local planning authority as that can provide for the original unilateral undertaking to be superseded. If an application is made the original unilateral undertaking will remain in force (as it cannot be "withdrawn" or "superseded" other than by agreement with the local planning authority), but it will be for the local planning authority to secure enforcement of the preferred version.

M.8 Planning obligations and the provision of affordable housing

M.8.1 This section should be read alongside the relevant sections of the Law Society's model section 106 agreement (second edition - June 2010).

M.8.2 If a planning obligation provides for affordable housing as part of the proposed development, the Inspector will need to be satisfied that:

- the type(s) of affordable housing which it is proposed to provide are satisfactorily defined;
- where there is a split between the different types of affordable housing it is justified and that there are arrangements to secure it;

[18] The Growth and Infrastructure Act 2013 inserts new sections 106BA, BB and BC into the Town and Country Planning Act 1990. This introduces a new application and appeal procedure to review affordable housing obligations on the grounds of viability. Information for applicants and local planning authorities on this measure and the procedures is in the Department for Communities and Local Government guidance - Section 106 affordable housing requirements: review and appeal (April 2013).

- there are clear and specific provisions dealing with the distribution of the affordable housing;
- the covenants are drafted in a way which will ensure delivery of the proposed housing. The planning obligation should state who is to be responsible for the construction of the affordable housing;
- if the land to be used for affordable housing is to be transferred (eg to a Registered Provider), the relevant land is clearly identified on a plan, and there is a restriction on development until arrangements for the transfer are made as set out in the planning obligation or in a document annexed to it;
- if the Registered Provider is a party to the planning obligation, it includes positive covenants to ensure that the affordable housing will be constructed and (by a suitably worded provision) transferred to the Registered Provider (possibly with a cascading mechanism in case of default by the preferred Registered Provider);
- if none of the parties to the planning obligation is a Registered Provider (and assuming the applicant itself is not going to build the affordable housing), there are adequate and reasonable arrangements for securing a Registered Provider;
- the phasing arrangements for delivery of the affordable housing are satisfactory. The planning obligation should not allow most of the market housing to be sold before the affordable units are available for occupation. The provision/occupation of both types of housing should be appropriately synchronised;
- if the affordable housing is to be provided off-site, or a financial contribution made in lieu of provision, there is robust justification for this, and what is on offer is of broadly equivalent value (see paragraph 50 of the Framework);
- the planning obligation contains adequate controls to ensure that any affordable housing is retained as affordable for an unlimited duration;
- the arrangements for allocating the affordable housing (eg nomination rights involving use of the local authority's housing waiting list or allocations to qualifying persons by a Registered Provider) are satisfactory;
- if the planning obligation includes a cascade arrangement, there are adequate time-periods at each stage, especially before triggering any "fall-back" clause which would enable the affordable housing to revert to the developer for sale on the open market; and
- the proposed arrangements for managing the affordable housing are adequate.

Glossary

Affordable housing	See National Planning Policy Framework [DCLG, March 2012].
Agreement	A legal document executed and delivered by all the parties named. Must be between 2 or more parties.
Attorney	A person appointed by another to act in the latter's place.
Benefit	Something, for example an area of open space, a community facility, an item of infrastructure, or a financial contribution, which is provided by means of a planning obligation.
Certified copy	A copy of a legal document which has been signed and certified as a true copy by the person to whose custody the original is entrusted.
Common seal	See Sealing below.
Completed	A legal document that has been executed and delivered to the other party or parties unconditionally.
Completion	The act of completing a legal document.
Condition precedent	A provision which delays the right or requirement to do something until another action or event has occurred.
Covenant	A binding promise given by one party to another to observe or perform an obligation.
Deed	A legal document that is executed as a deed.
Delivered	A deed is delivered at the point at which it takes effect, that is to say when it has been both executed **and** dated.
Discharge	Release from a planning obligation.
Enforceable / Legally enforceable	Binding in a legal sense and capable of being enforced if not complied with.
Estate contract	A contract by an owner of land to convey the land to another.
Evidence of title / Details of title	Documents which evidence ownership of property, (also sometimes referred to as Title Deeds – see below.)
Executed	See Appendix M.2.
Instrument / Legal instrument	A formal legal document.
[Legal] interest in land	An interest in land includes freehold ownership, leasehold interest, interest as a mortgagee, etc. Under section 106 it is a pre-requisite to entering into a planning obligation.
Landowner	Person holding a legal estate in land, eg a freeholder or leaseholder.
Liability	A duty or obligation enforceable by law.
Mortgagee	A person with security against a property usually by

	way of a loan.
Obligation / Planning obligation	An obligation in the strict sense is something which a party is legally bound to do (eg they may be bound by a section 106 agreement or unilateral undertaking to make a financial contribution towards educational facilities, lay out an access road, and so on). However the term "obligation" is also sometimes used as shorthand for "planning obligation", which in this generic sense refers to both section 106 agreements and unilateral undertakings.
Option to purchase	A right (made by agreement) to buy or not, within a certain time.
Power of Attorney	Legal document authorising a named person to sign documents on another's behalf in specified circumstances.
Registered Provider	An organisation which is registered with the Homes and Communities Agency as a provider of social housing. This can include Housing Associations, Local Authorities and private companies.
Section 106 agreement	An agreement made under section 106 of the Town and Country Planning Act 1990, containing covenants from one or more parties (who must have a legal interest in the land) to another party (usually the local planning authority).
Sealing (of a legal document)	Method of signing a document by means of a corporate or common seal. See Appendix M.2.
Successor(s) in title	Persons who are entitled to succeed the current holder(s) of a title to a property.
Title	A right to ownership of land or property.
Title Deed	A legal document which provides evidence of title to the land or property.
Unilateral undertaking	A planning obligation executed solely by the party or party giving the covenants and not by the party (usually the local planning authority) having the benefits of those covenants. In this way it differs from a section 106 agreement which is executed by all the parties including the local planning authority.
Witness / witnessing	A document is witnessed if it is signed in the presence of one or more other persons – the witness(es) – who then also sign to indicate that they have witnessed the signature.

Execution as a deed

Section 106(9) of the Town and Country Planning Act 1990 *(*as substituted by section 12 of the Planning and Compensation Act 1991*)* states that a planning obligation may not be entered into except by an instrument [that is to say, a formal legal document] executed as a deed.

Execution of a deed can be fulfilled in the following ways:

1. Execution by an individual

Section 1(3) of the Law of Property (Miscellaneous Provisions) Act 1989 provides that an instrument is validly executed as a deed by an individual if:

(i) it is signed by him in the presence of a witness who attests the signature; (or, at his direction and in his presence and the presence of two witnesses who each attest the signature)

and

(ii) it is delivered as a deed by him or a person authorised to do so on his behalf.

Example

The above requirements are satisfied if:

The following words appear in the document: *In Witness to the above the Owner has executed and delivered this Deed the day and year first above written*.

and

The document is signed in the following manner:

Signed as a Deed by:)
A N Other) *(A N O signs here)*
In the presence of)

……
(*Signature of witness*)
……
(*Name of witness in print*)
……
……
……
(*Address of witness*)

2. Execution by a company

Section 44 of the Companies Act 2006 provides that a document is executed as follows:

(i) By the affixing of its Common Seal,

OR

(ii) By signature in accordance with section 44(2) that is, by any 2 authorised signatories.

Authorised signatories are defined as:

- every Director of the Company and
- the Secretary (or any joint secretary) of the Company

OR

(iii) By a Director of the Company in the presence of a witness who attests the signature

Examples

The above requirements are satisfied in the examples below:

(i) By Sealing

The following words should appear in the document: *In Witness to the above the Company has affixed its Common Seal the day and year first above written*.

and

The Common Seal of)
J R Ltd was affixed) *(Seal of JR Limited here)*
in the presence of)

.....
(*Director)*

[Usually a Director signs according to the rules of the Company but the presence of a seal is normally conclusive of the fact that the deed has been properly executed.]

(ii) By signature

The following words should appear in the document: *In Witness to the above the Company has executed and delivered this document as a Deed the day and year first above written*.

and

The document should be signed in the following manner:

Signed as a Deed by)
J R Ltd) *[signatures of authorised signatories[19] here]*
Acting by)

……	……
(*Signature*)	(*Signature*)
……	……
(Name and position in print)	*(Name and position in print)*

(iii) By signature in the presence of a witness

The document should be signed in the following manner:

Signed as a Deed by)
JR Limited) *[signature of Director here]*
Acting by)

……	…….
(Signature)	*(Signature of witness)*
……	…….
(Name and position in print)	*(Name of witness)*

3. Other scenarios

If it is proposed to execute a document in any other way, documentary evidence that the signatories are authorised to sign should be provided. For example:

- If a Company signs on behalf of an individual or another Company - section 44(8) of the Companies Act 2006 applies.
- If the office of Director or Secretary of a Company is held by an individual of a Firm (e.g. a firm of accountants or solicitors) - section 44(7) of the Companies Act 2006 applies.
- If a Building Society or Bank refers to "authorised signatories" who are not Directors or the Company Secretary.
- If a document is signed on behalf of a Trust by named Trustees.

[19] See above for definition of "authorised signatories".

N What is "Expert evidence"?

N.1 Who provides expert evidence?

N.1.2 Expert evidence is evidence that is given by a person who is qualified, by training and experience in a particular subject or subjects, to express an opinion. It is the duty of an expert to help an Inspector on matters within his or her expertise. This duty overrides any obligation to the person from whom the expert has received instructions or by whom he or she is paid.

N.1.2 The evidence should be accurate, concise and complete as to relevant fact(s) within the expert's knowledge and should represent his or her honest and objective opinion. If a professional body has adopted a code of practice on professional conduct dealing with the giving of evidence, then a member of that body will be expected to comply with the provisions of the code in the preparation and presentation (written or in person) of the expert evidence.

N.2 Endorsement

N.2.1 Expert evidence should include an endorsement such as that set out below or similar (such as that required by a particular professional body). This will enable the Inspector and others involved in an appeal or a called-in application to know that the material in a proof of evidence, written statement or report is provided as 'expert evidence'. An appropriate form of endorsement is:

> *"The evidence which I have prepared and provide for this appeal reference APP/xxx (in this proof of evidence, written statement or report) is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.".*

N.2.2 Giving expert evidence does not prevent an expert from acting as an advocate so long as it is made clear through the endorsement or otherwise what is given as expert evidence and what is not.

O What is the procedure for advertisement appeals?

O.1 Introduction

O.1.1 This annexe provides guidance and advice about advertisement appeals and appeals against discontinuance notices.

O.2 Legislation, policy and guidance

O.2.1 Although linked to the general planning rules through section 222 of the Town and Country Planning Act 1990, advertisement consent has its own set of rules and regulations. Section 220 of the Town and Country Planning Act 1990 sets out the basis for the Regulations.

O.2.2 Advertisement appeals in England are controlled by Town and Country Planning (Control of Advertisements) (England) Regulations 2007 Statutory Instrument 783/2007. Minor amendments were made in Statutory Instrument 1739/2007. The Regulations were further amended in 2011 and 2012 by Statutory Instruments 2057/2011 and 2372/2012.

O.2.3 The Regulations are accompanied by DCLG Circular 03/2007 Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Minor corrections to the Circular were made in July 2007. The National Planning Policy Framework provides further information.

O.2.4 Advertisement hearings take place under the Town and Country Planning Appeals (Inquiries Procedure) Rules 1974 Statutory Instrument 419/1974. The conduct of the hearing is at the discretion of the Inspector who may, if the occasion warrants, permit cross-examination, as in the case of an inquiry. Unlike other types of hearings, advert hearings are generally closed in the room rather than on site. Although appellants are encouraged to provide statements in advance there is no requirement, unlike that placed on the local planning authority, for them to do so.

O.2.5 The Department for Communities and Local Government produced the guidance 'Outdoor advertisements and signs: a guide for advertisers', June 2007.

O.2.6 When a local planning authority issues its decision on an application for consent to display an advertisement or issues a discontinuance notice it should include the Appendix C to Annex to Communities and Local Government Circular 03/2007 "Notes for guidance about advertisement appeals".

O.3 Advertisement appeals

O.3.1 An applicant may appeal against the decision of the local planning authority to:

- refuse consent for the advertisement(s) shown on the application form;

- grant consent for the advertisement(s) subject to conditions to which the applicant objects;
- serve a discontinuance notice; or
- against the failure of the local planning authority to give notice of its decision within the appropriate period (usually 8 weeks) of an application for consent.

O.3.1 The appeal and essential supporting documents must be received by us:

- within 8 weeks of the date the applicant received the local planning authority's decision notice; or
- for non-determination ('failure') appeals, within 8 weeks of the date by which the local planning authority should have decided the application; or
- if the local planning authority has issued a discontinuance notice, before the date that the notice will come into effect. This date is given in the notice.

O.3.2 If we do not receive the appeal and documents within this time limit, we will not accept the appeal[20].

O.3.3 The local planning authority should decide the application within 8 weeks of the date it accepted it as valid. If the applicant agreed with the local planning authority, in writing, a period longer than the 8 weeks, but it has failed to decide the application within that period we must receive the appeal within 8 weeks of the end of that extended period.

O.3.4 An appeal should be made only when all else has failed. The applicant should have been discussing the proposed advertisement with the local planning authority during the course of the application for advertisement consent. If the applicant thinks that making changes to the proposal could resolve the local planning authority's reasons for refusal, they should discuss these with the local planning authority before appealing to us. A further application to the local planning authority may be the best route.

O.3.5 For further information please see the "How to complete your advertisement appeal form" and the "Guide to taking part in advertisement appeals" on the Planning Portal: http://www.planningportal.gov.uk/planning/appeals/guidance/guidanceontheappealprocess

O.4 Grounds of appeal

O.4.1 The appeal form should provide full grounds of appeal and should be accompanied by the relevant documents. If the appeal is against the local planning authority's failure to decide an application it is helpful if the appellant provides reasons why they feel the application should be granted.

[20] We will consider accepting late appeals where there are exceptional circumstances for it being made late. The reason(s) why it is being made late should be stated at the time the appeal is made.

O.5 Local planning authority's appeal statement

O.5.1 When preparing its appeal statement the local planning authority should ensure that it also provides the specific information requested in the appeal "starting letter" and the Essential Supporting Information form. The local planning authority should provide its statement within 3 weeks of the starting date for appeals proceeding by written representations and no later then 4 weeks before the date of the hearing for those cases.

O.5.2 Statements should be concise and concentrate on the 2 issues of amenity (character and appearance, including aural and visual) and public safety.

O.6 Conditions

O.6.1 There is no need to suggest the standard conditions, which apply to all consents. These can be found at Schedule 2 of the 2007 Regulations and are discussed at paragraph 14 of the Annex to 03/2007.

O.6.2 All consents are automatically granted for 5 years, unless specifically stated (Regulation 14(7)). Therefore a time-limited condition need only be suggested where a period other than 5 years is thought necessary. Class 14 of Schedule 3 of the Regulations grants, with certain restrictions, deemed consent after the expiration of express consent provided there is no condition which requires the removal of the advertisement following expiry of the express consent.

O.6.3 Suggested conditions for a hoarding or general advertisement should seldom, if ever, seek to control content. However, conditions can control size or colour etc in relation to a specific advertisement, if required for the purposes of amenity or public safety. Any suggestions for such conditions should be justified.

O.6.4 When suggesting a condition relating to illumination of advertisements it is useful to refer to 'Technical Report No 5: Brightness of Illuminated Advertisements' by the Institution of Lighting Engineers. The latest version is the 3rd edition dated 2001[21]. Paragraph 11.3 of the Technical Report contains a suggested condition relating to intensity of illumination.

O.7 Advertisements in special areas

O.7.1 If the appeal site is in an Area of Special Control of Advertisements (ASCA), conservation area, or Area of Outstanding Natural Beauty (AONB) local planning authority statements should include maps outlining the boundaries of such areas. In relation to a site in an Area of Special Control of Advertisements the information could be crucial to the handling of the appeal and may affect whether consent can be granted. We do not hold information on Areas of Special Control of Advertisements and we rely on the local planning authority to clearly state where this applies.

[21] As the Report is from 2001 it refers to the 1992 Regulations.

O.7.2 The specific duty in section 72 of the Planning (Listed Building and Conservations Areas) Act 1990 applies where a site is in a conservation area. However, that in section 66 regarding listed buildings does not apply, except where enforcement action is involved. Listed building consent as well as advertisement consent is normally required for advertisements attached to listed buildings, because the attachment generally comprises an alteration to the listed building affecting its character as a building of special architectural or historic interest. Where a listed building is involved the listed building description should be included in the local planning authority's statement.

O.7.3 If the local planning authority has refused listed building consent, or failed to determine it within time, it is helpful to make any listed building consent appeal at the same time as making the advertisement appeal so that they can be considered together.

O.8 Deemed consent

O.8.1 Part 2 and Schedule 3 of the 2007 Regulations grant deemed consent for certain advertisements, therefore negating the need for specific, 'express', consent. The classes of deemed consent are explained more fully at paragraphs 15-74 of the Annex to 03/2007.

O.8.2 The Court, in Thomas v National Assembly for Wales & Neath Port Talbot County Borough Council [2009] 1734 (Admin), held that if an applicant for express consent specifically requests a ruling on whether deemed consent already exists thereby making an express consent unnecessary the Inspector (or local planning authority at application stage) must consider whether that is the case.[22] There is no requirement for this where a request has not been expressly made.

O.9 Discontinuance notice appeals

O.9.1 A discontinuance notice can be issued against an advertisement displayed with deemed consent. It is a formal document that, once it takes effect, can result in conviction for non-compliance.

O.9.2 Discontinuance action cannot be taken against advertisements that have express consent, are exempt from the need for consent or are unlawful.

Contents of the notice

O.9.3 Where a discontinuance notice is served requiring the discontinuance of the use of a particular site for the display of advertisements with deemed consent to cease (for example, a flank wall on which a poster panel is displayed), the definition of the site should not be so wide as to include within its scope any part where there are advertisements that the local planning authority is not seeking to remove.

O.9.4 The notice must give at least 8 weeks for it to come into effect from the date of service of the notice. Although there is no requirement that a

[22] This is a Welsh case and so considered the 1992 Regulations, which still apply in Wales, although as no provision for determining deemed consent was added to the 2007 Regulations it is considered that it also applies in England.

notice shall contain any statement of the right of appeal against it, local planning authorities are expected, as a matter of good practice, to alert the recipients to their right of appeal – please see paragraph O.2.6.

Statement of reasons

O.9.5 The local planning authority's statement of reasons accompanying the notice must back up why a particular display or use of a site for the display of advertisements with deemed consent is considered to cause substantial injury and should clearly differentiate as to whether it is the use of the site that is unacceptable or a specific advert (Regulation 8(1); Appendix F to Annex to Circular 03/2007).

O.9.6 Specific and convincing reasons are needed for each notice. If the notice relates to a use of a site, the statement should give reasons why the use, as opposed to any existing display, should cease. Care should be taken to ensure that the definition of the site and any plan attached to the notice is precise and does not include any part of a building or land on which other advertisements are displayed with deemed consent which are not the intended target of the notice.

O.9.7 The local planning authority should state whether the discontinuance notice is part of a wider campaign and if not why action has been taken against this particular site/advert; this is particularly useful where the appellant has referred to other advertisements in the area which, in their view, have a comparable impact to the appeal display/site.

O.10 Other matters

Regulation 7 Directions

O.10.1 A local planning authority may ask the Secretary of State to make a direction that the display of advertisements within one of the deemed consent classes in Schedule 3, other than Class 12 or 13, may not be displayed within an area without express consent having been first obtained. Local planning authorities should contact the Secretary of State for Communities and Local Government at:

Department for Communities and Local Government
Planning-Development Control
Zone 1/J3 Eland House
Bressenden Place
London
SW1E 5DU

Areas of Special Control of Advertisements

O.10.2 If local planning authorities want to create an Area of Special Control of Advertisements they should apply to the Secretary of State for Communities and Local Government (at the address given above) for approval of an order.

O.10.3 Local planning authorities are reminded that where an order is in force they have a duty, under regulation 20(4), to consider at least once in every 5 years, whether it should be revoked of modified.

P What happens if an error has been made?

P.1 Background

P.1.1 Under section 56 of the Planning and Compulsory Purchase Act 2004, we may correct certain types of errors within our decision notices (sometimes referred to as the "Slip Rule") if we consider it to be in the public interest to do so. This allows us to issue a correction notice only to correct errors which are not material and which would not have the effect of altering or varying the decision. On receipt of a request, we will decide whether a correction should be made.

P.1.2. A correction notice may be issued in relation to the following decision types:

- Planning
- Enforcement
- Listed Building (including Listed Building Enforcement)
- Conservation Area Consent
- Costs
- Advertisement

P.1.3 A correction notice will be accompanied by an amended decision (superseding the original decision) which has full legal status. That decision will carry a fresh date and will replace (and be subject to the same provisions as) the original in all respects.

P.1.4 The Act requires any person who wants us to correct a decision to request this in writing and within the relevant High Court challenge period. This is **within 6 weeks from the date of the decision notice for planning appeals**.

P.1.5 If any person wants us to consider correcting a decision they should explain clearly what error they think has been made.

Contacting us

Quality Assurance Unit
The Planning Inspectorate
1/23 Hawk Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Phone: 0303 444 5000
Email: web.complaints@pins.gsi.gov.uk
Website: http://www.planningportal.gov.uk/planninginspectoratefeedback

Q Feedback and complaints

Q.1 How do we handle feedback?

Q.1.1 We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. We welcome feedback and like to hear that we have provided a good service. However although we aim to give the best service possible, there will unfortunately be times when things go wrong and we fail to achieve the high standards we set ourselves.

Q.1.2 We appreciate that many of our customers will not be experts on the planning system and for some it will be their one and only experience of it. We consider that people's opinions are important and realize that they may be strongly-held.

Q.1.3 All correspondence we receive after the appeal decision is issued is handled by the Quality Assurance Unit which works independently of all of our casework and Inspector teams. We will reply as soon as possible in clear, straightforward language, avoiding jargon and complicated legal terms.

Q.1.4 People can contact us by email, write to us, or phone us (see 'Contacting us' below). Whilst we are happy to talk to people on the phone, where there are a number of issues to relay it may be easier to put these in writing setting out the points clearly. We will acknowledge all correspondence, advise who is dealing with it and provide a timescale for replying. We aim to reply to 80% of all correspondence within 20 working days.

Q.2 Looking at appeal documents

Q.2.1 Before making a complaint it would usually be a good idea to look at the appeal documents. We normally keep appeal files for one year after the decision is issued, after which they are destroyed. People can look at appeal documents at our office in Bristol, by contacting us to make an appointment (see 'Contacting us' below). We will obtain the file from our storage facility ready for it to be viewed at the appointment.

Q.2.2 Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view the local planning authority's copy of the file, which should be similar to ours.

Q.3 How we investigate complaints

Q.3.1 There is no time limit in which complaints must be made, but we would normally expect them to be made promptly once the reason for the complaint becomes apparent. As explained in paragraph Q.2.1 above, we normally only keep appeal files for one year after the decision is issued, after which they are destroyed. Whilst we are able to deal with complaints that are older than that, our ability to do so thoroughly may be restricted if the file has been destroyed, and the recollections of the people concerned will

naturally fade over time. In such circumstances, complainants will probably need to send us documents to support their complaint.

Q.3.2 It is the job of the Quality Assurance Unit to investigate complaints about procedure, decisions or an Inspector's conduct. All complaints are investigated impartially and as thoroughly as possible.

Q.3.3 However, to help us gain as full a picture as possible, we may need to ask the Inspector or other staff for comments. This helps us to decide whether an error has been made. If this is likely to delay our full reply we will let the complainant know.

Q.3.4 Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes there is confusion about what the appeal decision means. In planning appeals (under section 78 of the Town and Country Planning Act 1990) 'Allowed' means that planning permission has been granted, 'Dismissed' means that it has not.

Q.3.5 Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision or the way the appeal was handled.

Q.3.6 Sometimes the appellant, the local planning authority or a local resident may have difficulty accepting a decision simply because they disagree with it.

Q.3.7 We appreciate that the party, especially an appellant, that 'loses' an appeal will be disappointed but it is very important to understand that we cannot re-open an appeal to re-consider its merits, add to what the Inspector has said or change the decision. We will however do our best to clarify things, if it is necessary and possible.

Q.3.8 Sometimes a complaint is not one we can deal with (for example, complaints about how the local planning authority dealt with another similar application), in which case we will explain this and suggest who may be able to deal with the complaint instead.

Q.3.9 Similarly we cannot resolve any issues someone may have with the local planning authority about the planning system or the implementation of a planning permission.

Q.3.10 If the complainant considers that our reply has not adequately responded to their concerns, our policy is that a senior manager will review their complaint and send a final reply.

Q.4 Who is responsible for monitoring a development?

Q.4.1 If planning permission is granted, by the local planning authority at application stage, by the Inspector or the Secretary of State on appeal, or by the Secretary of State on a called-in application, **the local planning authority has the sole responsibility for monitoring the**

implementation of the permission and ensuring that it is in accordance with the plans and any conditions. The Planning Inspectorate does not have this role.

Q.4.2 If the local planning authority considers that the development does not comply with the permission they have the power to take enforcement action.

Q.5 What we cannot change

Q.5.1 As we have already stated above, we **cannot change the Inspector's decision**, or re-open the appeal once the decision has been issued.

Q.5.2 Although we can rectify certain minor errors (please see Annexe P), we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached even if we acknowledge that an error has occurred. This can only be done following a successful High Court challenge resulting in the appeal being returned to us to decide it again, please see Annexe R.

Q.6 What we will do if we have made a mistake

Q.6.1 We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints and our responses to them are therefore one way of helping us improve the appeals system.

Q.6.2 If a mistake has been made we will write explaining what has happened and we will apologize. The Inspector, or the administrative member of staff, and their line manager will be told that the complaint has been upheld and we will look to see if lessons can be learned from the mistake, such as whether our procedures can be improved or training given, so that similar errors can be avoided in future.

Q.6.3 Remedies which we may offer include:

- an apology, explanation, and acknowledgement of responsibility;
- remedial action which may include:
  - reviewing service standards;
  - revising published material;
  - revising procedures to prevent the same thing happening again;
  - training or supervising staff;

or any combination of these.

Q.6.4 Where maladministration or an error by us has led to injustice or hardship, we will try to offer a remedy that returns the complainant to the position they would have been in otherwise. If that is not possible, we will provide compensation for additional expenses incurred as a direct result of an acknowledged error by us, where there are compelling reasons to do so.

Q.6.5 We will consider carefully requests for financial compensation and would expect these normally to be received within 6 months of the date of the error or of any subsequent appeal decision by us related to that error (eg

a decision on an appeal that we have had to re-determine). However in exceptional circumstances (which should be explained) we will consider requests outside of this time limit.

Q.7 Role of the Ombudsman

Q.7.1 The Parliamentary and Health Service Ombudsman can investigate complaints of maladministration against Government Departments or their Executive Agencies. Normally the Ombudsman will not investigate a complaint:

- unless the complainant has followed our complaints process completely and is still not satisfied with our replies; or
- if there is a legal route that can be followed to challenge a decision.

Q.7.2 For called-in applications and appeals there **is** a legal route, for further information please sees Annexe R.

Q.7.3 Complaints to the Ombudsman must be made through a Member of Parliament. We would normally expect such a complaint to be made within 6 months of the date of our final reply to the original complaint, but it is for the Ombudsman's office to determine whether they will accept a case.

Q.7.4 Even if the Ombudsman does decide to investigate a complaint the Ombudsman **cannot change the Inspector's decision.**

Q.8 Frequently asked questions

"Why did an appeal succeed when local people were all against it?" – The representations of local people are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds based on all of the evidence, including the representations, whether the appeal should be allowed or dismissed.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the appellant or their agent, the local planning authority or its policies. However, Inspectors will be aware of policies and local opinion from the information provided by the appellant and the local planning authority and the representations people have made on the appeal.

"I wrote to you giving my opinion, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all representations received but it is not necessary to list every piece of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will nearly always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits taking into account the evidence provided by the parties on that case (which is likely to differ from case to case).

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your proposal would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can make a revised application to the local planning authority. Talking to a planning officer about this might help you explore your options.

Contacting us

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R How can a decision be challenged?

Important Note - The content of this document is guidance only with no statutory status. This guidance is not definitive. Because High Court challenges can involve complicated legal issues, if someone is considering making a challenge they may wish to take legal advice from a qualified person, such as a solicitor. Further information is available from the Administrative Court (see below).

R.1 What is the process for challenging a decision made during the processing of a case?

R.1.1 For decisions made by administrative staff during the processing of a called–in application or an appeal there is no statutory right to challenge that decision in the High Court (please see the information about High Court challenges below). However it is possible to make an application for judicial review of such a decision. Rule 54.5(5) of the Civil Procedure Rules 1998 (as amended) requires that an application for judicial review relating to a decision of the Secretary of State[23] under the planning acts, must:

- if the administrative decision was made before 1 July 2013, be made promptly and in any event not later than 3 months after the grounds to make the claim first arose; or
- if the administrative decision was made on or after 1 July, be made not later than 6 weeks after the grounds to make the claim first arose.

R.1.2 However if the called-in application or appeal is decided before the end of these time limits then the only way to challenge is by a High Court challenge.

R.2 What is the time limit for making a challenge in the High Court?

R.2.1 A challenge to a decision, on a planning appeal or on a called–in planning application, in the High Court must be made within 42 days (6 weeks) of the date of the decision– this period cannot be extended.

R.3 On what grounds can a decision be challenged?

R.3.1 A decision cannot be challenged merely because someone disagrees with the Inspector's decision. For a challenge to be successful the challenger would have to satisfy the High Court that the Inspector made an error in law, eg misinterpreting or misapplying a policy or failing to take account of an important consideration. If a mistake has been made and the High Court considers it might have affected the outcome of the appeal it will return the appeal to the Planning Inspectorate for it to be decided again.

[23] Our administrative staff make decisions about the processing of an appeal or called-in application on behalf of the Secretary of State.

R.4 Under what legislation can a decision on a called-in planning application or a planning appeal be challenged?

R.4.1 These are normally applications under section 288 of the Town and Country Planning Act 1990. For listed building or conservation area consent appeal decisions challenges are made under section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended.

R.5 Who can make a challenge?

R.5.1 In planning cases, a person aggrieved by the decision may do so if they have sufficient interest to in the decisions. This could include interested people as well as appellants, local planning authorities and landowners.

R.6 How much is it likely to cost?

R.6.1 An administrative charge is made by the Court for processing a challenge (the Administrative Court should be able to give advice on current fees – please see Further information below). The legal costs involved in preparing and presenting a case in Court can be considerable, and if the challenge fails the challenger will usually have to pay our costs as well as their own. However, if the challenge is successful we will normally be required to meet their reasonable legal costs.

R.6.2 Sometimes a request can be made to the Court for an order (a Protective Costs Order or PCO) which excludes liability or limits liability for the other side's costs up to a certain amount including costs of the decision maker and any interested people. The Administrative Court or a legal adviser will be able to advise if this is possible.

R.7 How long will it take?

R.7.1 This can vary considerably. Many challenges are decided within 6 months, some can take longer.

R.8 Does a challenger need to get legal advice?

R.8.1 A challenger does not have to be legally represented in Court but it is normal to do so, as they may have to deal with complex points of law made by our legal representative.

R.9 Will a successful challenge reverse the decision?

R.9.1 Not necessarily. If a challenge is sucessful the High Court will return the case to us for it to be decided again. This does not necessarily mean that the original decision will be changed or reversed. An Inspector may come to the same decision but for different or expanded reasons.

R.10 What happens if a High Court challenge fails?

R.10.1 Although it may be possible to take the challenge to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission to do this.

R.11 Further information

R.11.1 Further information about making a High Court challenge can be obtained from:

Administrative Court at the Royal Courts of Justice
Queen's Bench Division
Strand
London
WC2A 2LL

Phone: 020 7947 6655
www.courtservice.gov.uk

R.12 What happens if a challenge is successful?

R.12.1 If a challenge is successful the appeal will be returned to the Planning Inspectorate for us to decide it again. We will give all High Court re-determination cases priority status, and they will normally be dealt with quickly, though without prejudicing any party. In some cases we will appoint a different Inspector to re-determine the appeal.

R.12.2 The appeal will usually be decided by either further written representations or an inquiry. We will rarely arrange a hearing even if the original appeal was dealt with this way. We consider that a hearing decision that has been examined in the formal setting of the High Court would normally need to be re-determined under the formal inquiry procedure, in order to allow a full examination of the legal issues raised. However, where all parties agree that a hearing would be appropriate we will take this into account when determining the procedure for the re-determined appeal.

R.12.3 Where the appeal was originally dealt with by written representations, we would normally re-determine it by means of further written representations. However, where there has been a material change in circumstances, we may consider this is no longer the most appropriate procedure; having regard to the criteria (please see Annexe J).

R.12.4 Where the appeal was originally dealt with by an inquiry, a new one may be held. Where there have been significant changes in circumstances (eg new legislation or local or national policies) since the original inquiry or hearing the Inspector would normally allow further evidence to address these.

R.13 What will the timetable be for the hearing or inquiry?

R.13.1 For re-determined appeals where the inquiry is expected to last 3 days or more, we would usually agree a bespoke timetable with the main

parties to cover the dates of the inquiry and the receipt of evidence. For further information please see Annexe G.

R.13.2 In other cases we would normally try to agree dates for a hearing or an inquiry in accordance with our standard practice, please see Annexe E and Annexe F. Where the re-determined case is proceeding by written representations we would normally contact the parties to make arrangements for a further visit, unless it has been agreed that a further visit is unnecessary. Cases to be re-determined by the Secretary of State will be determined in accordance with the timetable published by the Secretary of State.

R.14 Contact information

High Court Team
The Planning Inspectorate
1/25 Hawk Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Phone: 0303 444 5000
Email: web.complaints@pins.gsi.gov.uk
Website: http://www.planningportal.gov.uk/planninginspectoratefeedback

The Parliamentary & Health Service Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP

Helpline: 0845 0154033
Website: www.ombudsman.org.uk
Email: phso.enquiries@ombudsman.org.uk

S Setting dates for hearings and inquiries

S.1 Agreeing and suggesting dates

S.1.1 Before making an appeal the appellant should consider which procedure is most appropriate according to the criteria at Annexe J. If the hearing or inquiry procedure appears to be the most appropriate they should agree with the local planning authority at least 2 dates on which the inquiry or hearing could take place.

S.1.2 The appellant should allow 7 working days from making the complete appeal for us to start it and the suggested dates should be within a 12 week period for a hearing and within a 20 - 22 week period for an inquiry from that "start date". The appellant should note these on the appeal form.

S.1.3 Where mutually convenient dates have not been agreed, the appellant and the local planning authority should let us know why and suggest their own preferred dates.

S.2 What happens next?

S.2.1 Where dates are agreed and provided with the appeal we contact the local planning authority and the appellant/agent by phone to confirm that we will use the dates provided and will proceed to fixing the event within 48 hours. If one or more party(ies) is no longer able to meet the 'agreed' date(s), we will either offer an alternative date to the party who has not declined, or where both parties decline, impose a date.

S.2.2 Where agreed dates are out of target or if we do not have a suitable Inspector available (only likely in the most complex of cases), we will give parties 48 hours to agree another date (in target). If agreement cannot be reached we will offer a date, as above.

S.2.3 If no agreed dates are provided when we receive the appeal we will offer dates to the parties and will follow the above process.