PLANNING INQUIRIES
THE BASICS

Overview

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

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

Why a Planning Inquiry

Inquiry (non-enforcement)

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

Hearing

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

Written Representations

- Issues can be understood from documents and a site visit
- Issues not complex and evidence does not need to be tested
‘Stages’ in the run-up to a Planning Inquiry

Not cover:

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

If in doubt, check the PINS guidance!

Planning:

Enforcement:
1 – Submitting the appeal

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

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

2 - Appeal Received

- Appeal is validated
- PINS sets the “start date” and timetable
- Inquiry date - should occur 14 weeks from the start date although flexibility within 13-16 weeks.
3 – LPA sends questionnaire and supporting docs

Within 1 week of the “start date”

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

4 – LPA Statement of Case, SoCG and IP reps

5 weeks after the start date

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

• SoCG pro forma and guidance available online
• Matters of agreement and disagreement
• Include agreed conditions
• Core documents list

5 – Case Management Conference

Within 7 weeks of start date

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

Matters discussed determined by Inspector but include...
5 – Case Management Conference

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

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

6 – Proofs of Evidence

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

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

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

7 – Final Steps..

• Inquiry arrangements made by LPA sent to all parties at least 2 weeks before inquiry

• Draft planning obligation sent no later than 10 days before inquiry, if there is one
What happens at inquiry

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

Giving Evidence – written and oral

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

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

Tips for Round Table Sessions

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

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

Inquiries using remote video conferencing software

Factors to consider
• Team assembled or separate?
• The “venue”
• Document sharing
• Timings
• Blended approach?

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

- PINS Procedural Guides
- [https://www.pinsentmasons.com/out-law/analysis/how-to-engage-uk-virtual-planning-inquiries](https://www.pinsentmasons.com/out-law/analysis/how-to-engage-uk-virtual-planning-inquiries)
- [https://www.youtube.com/watch?v=ey9TAdpUdEw](https://www.youtube.com/watch?v=ey9TAdpUdEw)

Questions?
Thanks for watching!

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