

Royal Borough of Windsor and Maidenhead
Planning Department



Guide 15

A Summary of the Appeal Process

How and when should I appeal?

This leaflet gives information on the most common appeals against applications for planning permission, for example when the Council refuses planning permission, Listed Building Consent or Conservation Area Consent. Information on less common appeals, such as those against the Council having served an Enforcement Notice, require more specialised advice and if this is the case the you are advised to consider the advice available on the Council's website at www.rbwm.gov.uk (for example on enforcement generally), and on the Planning Inspectorate's website at www.planning-inspectorate.gov.uk in the first instance, and if necessary contact one of the Council's Planning or Enforcement Officers.

If the Council either refuses your planning application, or approves your planning application with conditions that you consider are unwarranted, or do not make a decision on your application within the prescribed period (generally eight weeks, although longer is given for certain types of application), then you can appeal against the decision to the Planning Inspectorate (a Government agency) that will deals with your appeal.

Before you appeal to the Planning Inspectorate, you first ought to look carefully at why your application was refused, or conditions included that you are unhappy with, or why a decision has not made. You can ask the Council (preferably by contacting the Planning Officer who dealt with your application) if you could sort the problem out, for example by changing or revising your proposal. If you change your proposal and need to make a further planning application within one year of the date that the original application was received by the Council then you shouldn't have to pay another fee, unless you have already had such a 'free go'.



An appeal ought to be the last resort after you have investigated whether there is any realistic prospect of an appeal being successful.

Who can appeal?

The only person who can appeal is the person who made the planning application or their agent. People who object to a planning application are not able to appeal against the Council's decision.

What can I appeal against?

You can appeal if:

- planning permission has been refused;
- you object to a condition the Council have added in approving an application; or
- you do not receive a decision (generally within eight weeks of your application being considered to be valid by the Council).

If you are going to appeal you must do so within six months of the date of the notice of the decision. If you are going to appeal against an Enforcement Notice the procedures are different. In these circumstances you are advised to consider the advice available on the Council's website at www.rbwm.gov.uk (for example on enforcement generally) and on the Planning Inspectorate's website at www.planning-inspectorate.gov.uk in the first instance, and if necessary contact one of the Council's Planning or Enforcement Officers.

Making an appeal

To make a valid appeal, you must use an official form. You can get forms from:

The Planning Inspectorate
Customer Support Unit
Room 3/15 Eagle Wing

Temple Quay House
2 The Square, Temple Quay
Bristol
BS1 6PN.
Phone: 0117372 6372
Fax: 0117 372 8782
Email: enquiries@planning-inspectorate.gsi.gov.uk

Please tell the Planning Inspectorate whether your appeal is to do with planning permission or Listed Building Consent or Conservation Area Consent, as the forms are different.

Don't leave it too late - remember the six-month time limit.

It is important that you set out your reasons for appealing fully and clearly. You need to explain why you disagree with the Council's decision. It isn't enough just to say that you don't accept the decision. If you don't give your reasons for appealing, the Planning Inspectorate may not consider your appeal to be valid.



Procedures for dealing with appeals

There are three ways in which appeals can be dealt with.

Written Representations

This method is usually easiest and quickest, as long as the Council agree to the appeal being dealt with by way of an exchange of Written Representations. This method does avoid an expensive Hearing or Public Inquiry and there is a very simple timetable to follow:

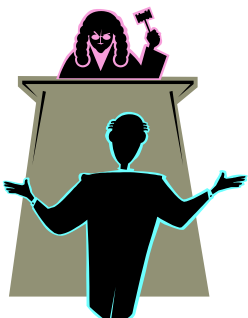
- you make a statement of your case in writing;
- we do the same;
- you see our case and we see yours;
- both sides have the chance to comment on the others case; and
- An Inspector from the Planning Inspectorate receives all the information, visits the site and comes to a decision on the appeal.

If you said in your appeal that the Inspector can view the site from public land and we agree, the Planning Inspectorate may arrange an unaccompanied site visit, although normally they are accompanied by both parties. At the visit, the Inspector is there to observe and may ask questions if clarity is needed but doesn't discuss anything about the respective arguments made in the case. If the Inspector needs to go on to private land to make an inspection, an accompanied site visit will usually take place. Both you and the Council have to be there, or someone else must be there to represent you.

Hearings

In certain cases the Planning Inspectorate may suggest that a Hearing, rather than a Public Inquiry, would be an appropriate method of determining an appeal. A Hearing is a less formal procedure where a meeting is held and a discussion takes place between the Inspector and everyone affected by a proposal.

Public Inquiry



If the proposal will have a major impact the Planning Inspectorate may decide to hold a Public Inquiry. This is a formal arrangement where everyone affected by the proposal may present arguments and the main parties, including the Council, often employ legal advisers to present their case.

The time and money involved

The time and money it takes to make an appeal depends on how complicated the ap-

peal is. Around 80% of appeals are decided using the Written Representation method. This is the quickest method. You don't have to pay for the appeal itself, but you are likely to incur some expense. The overall cost will largely depend on whether you employ professional advisers to help you. Remember that you will usually have to pay your own costs and you will not normally be able to claim them back from the Local Planning Authority, even if your appeal is successful. You can, of course, withdraw an appeal at any time simply by advising the Planning Inspectorate and the Council. However, if you do withdraw your appeal after the Planning Inspectorate has arranged Hearing or Public Inquiry, and it thinks you have behaved unreasonably, you may have to pay the costs of the Council and others. It is therefore important that you consider the matter carefully before making an appeal, and the method of undertaking the appeal (Written Representations, Hearing or Public Inquiry) you would like.

Who decides your appeal?

Under the Town and Country Planning Act 1990, almost all appeals can be decided by the Planning Inspectorate. The Secretary of State can take over any planning appeal, but only does so in very important or controversial cases.

The Inspector's decision

The Inspector will write to you with his or her decision and send us a copy of the decision letter.

Can I challenge the Inspector's decision?

You can generally only challenge a decision on a point of law if you feel the requirements of the planning Acts or proper procedure have not been carried out. Any challenge must be made through the High Court, and you will ought to take prompt legal advice in order to do this as there are time limitations in doing so.

Costs

All parties normally have to pay their own expenses for the appeal. You can ask the Inspector to order the Council to pay all of the costs. The Council can also ask the Inspector to order you to pay some or all of the costs. The Inspector, or the Secretary of State, will only order the other side to pay the costs if you or the Council can show that the other side has behaved unreasonably. In practice this does not happen very often.

Your chances of success

Although some appeals are successful, most are not. The chances of any appeal succeeding depends on the individual proposal and how they fit in with local and national policies,. At the time of writing the national average was about a third of appeals being given planning permission.

How do I find out more?

If you have any questions about the information in this leaflet, or would like any of our other leaflets, please contact us at:

The Customer Service Centre,
The Town Hall,
St Ives Road,
Maidenhead,
Berkshire.
SL6 1RF.

Phone: 01628 683810

Fax:: 01628 796438

E-mail: planning.maidenhead@rbwm.gov.uk