

# Making effective objections on appeals

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## Object to the initial application for planning permission

- Objections should relate to **planning issues only** e.g.
  - Planning policy support (local and national) for this type of development in this location (matters such as Green Belt, settlement boundaries)
  - Impact on highways
  - Air quality impact
  - Noise / odour / overlooking and other impacts on neighbour amenity
  - Visual impact and impact on character of the area
  - Ecological impact (protected habitats and species)
  - Impact on heritage assets (listed buildings and Conservation Areas)
  - Design



## Maintain the objection on appeal

- If the local planning authority (“LPA”) refuses planning permission or grants it subject to planning conditions that the developer is not content with: developer might appeal to the Secretary of State (“SoS”)
- The majority of appeals are determined by an Inspector on behalf of the SoS. Some are first considered by an Inspector who makes a recommendation to the SoS, with the SoS subsequently determining the outcome of the appeal
- Consult the reasons for refusal (“RfR”) relied on by the LPA in its decision notice refusing the application for planning permission

## Appeal procedure



- Written representations:
  - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/514295/taking-part\\_planning-written\\_April\\_2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514295/taking-part_planning-written_April_2016.pdf)
- Hearing:
  - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/514291/taking-part\\_planning-hearing\\_April\\_2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514291/taking-part_planning-hearing_April_2016.pdf)
- Inquiry:
  - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/514292/taking-part\\_planning-inquiry\\_April\\_2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514292/taking-part_planning-inquiry_April_2016.pdf)

## Appeal procedure



- See also the general PINS guide to appeals:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/677953/Procedural Guide Planning appeals version 1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/677953/Procedural_Guide_Planning_appeals_version_1.pdf)

## Participation at an inquiry

### “Rule 6 party” status or not?

- “Rule 6” = r. 6 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000
- Significance: entitled to appear at the inquiry. SoS will require submission of a statement of case. Entitled to call evidence (submit formal proofs of evidence) and to cross-examine Appellant’s witnesses
- Whether to ask for Rule 6 party status:
  - Resources
  - Sufficient to rely on LPA?



## Participation as a non-Rule 6 party

- Attend at the beginning of the inquiry so that the Inspector knows that you want to speak
- The LPA's witnesses usually go first and then third parties either go after the LPA's witnesses (before the Appellant's witnesses), or after both LPA and Appellant witnesses (i.e. before closing submissions)
- You will be allowed to ask questions of the Appellant's witnesses but not of the LPA's witnesses

## Participation as a Rule 6 party

- PINS guidance:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/514284/guide\\_rule\\_6\\_planning\\_April\\_2016.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514284/guide_rule_6_planning_April_2016.pdf)

“2.1 If you wish to take a very active part in an inquiry you should **write to our Case Officer requesting “Rule 6” status**. However, to avoid making the inquiry too repetitious, we encourage participants with similar views to group together and elect a spokesperson to appear at the inquiry on the group's behalf. You should state who you are representing (for example, a parish council or local community group), why you want “Rule 6 status” and **briefly explain what you can bring to the inquiry that another party may not**. [...]



## Participation as a Rule 6 party

2.2 Rule 6 parties can offer significant value to the inquiry process. However this is only the case where Rule 6 parties **add substantively to the case being made by the local planning authority or the appellant**

[...]

2.4 Depending on whether you oppose or support the appeal or the application you may wish to consult the local planning authority or the appellant or applicant to **find out** what their position will be at the inquiry to help you **decide whether your position can be satisfactorily represented by them. If this is the case, you would not need to ask us for Rule 6 status**".

## The substance of your objections

S. 38(6) of the Planning and Compulsory Purchase Act 2004:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

- Identify the respects in which the proposed development fails to accord with the development plan: see the RfR / officer report
- Explain why other material considerations do not indicate that planning permission should be granted

## The substance of your objections

N.b. one “material consideration” is the National Planning Policy Framework (“NPPF”): so also identify the respects in which the proposed development fails to accord with this statement of national planning policy

- Para. 14 of the NPPF: if the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless the adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits (assessed against NPPF policies) or specific NPPF policies indicate that development should be restricted
  - Applies (for housing development) if the LPA does not have a 5 year housing land supply: para. 49 NPPF

## And finally...

- Aligning your case with the LPA's case
  - Avoid ineffective duplication
  - Properly evidence additional arguments
- Avoiding uphill battles
  - Sites allocated for the proposed use in the development plan: little point objecting “in principle”
  - SoS likely to give significant weight to the position of statutory consultees
- Costs
  - Unreasonable behaviour
  - See Government's Planning Practice Guidance



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