



The Planning Inspectorate

Guide to Rule 6 for interested parties involved in an inquiry - enforcement appeals and certificate of lawful use or development appeals - England

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1 What is “Rule 6 status”?

1.1 “Rule 6 status” refers to Rule 6(6) of the Inquiries Procedure Rules¹ relevant to the particular inquiry. It states that:

“The Secretary of State may in writing require any other person, who has notified him of an intention or wish to appear at an inquiry, to serve —

- (a) 3 copies of their statement of case to him within 4 weeks of being so required; and*
- (b) in the case of an enforcement appeal, simultaneously, a copy of their statement of case on any person specified by the Secretary of State,*

and the Secretary of State shall, as soon as practicable after receipt, send a copy of each such statement of case to the local planning authority and to the applicant/appellant.”

1.2 From this extract from the Rules you will see that Rule 6 parties have the responsibility to send us a statement of case. They also have rights which are explained in this guide.

2 How do I apply for “Rule 6 status”?

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. It is unusual for “Rule 6 status” to be granted to individuals.

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.

2.3 Depending on whether you oppose or support the appeal you may wish to consult the local planning authority or the appellant 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.

¹ These are:

The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002

The Town and Country Planning (Enforcement) (Inquiries Procedure) Rules 2002 (in these Rules it is Rule 8(6))

2.4 With "Rule 6 status" you will be considered to be a main party. You will be sent copies of the documents sent to us by the other main parties (eg the appellant, the local planning authority and any other Rule 6 parties). You will be entitled to appear at the inquiry and to cross-examine other parties.

2.5 Please see the timetable at Annexe A for enforcement appeal and certificate of lawful use or development appeal inquiries.

2.6 It is very important for all parties to keep to the timetable for the receipt of documents.

3 Statement of case

3.1 We will instruct Rule 6 parties to send us a statement of case, usually within 4 weeks of the date of our letter which grants "Rule 6 status".

3.2 In your statement of case you will need to give full details of the case you will put forward at the inquiry. You must list any documents, including maps and plans, to which you intend to refer or use in evidence. Although you only have to list documents at this stage, it would be helpful if you supplied copies with your statement of case.

3.3 You must send us one copy of your statement of case for the Inspector and one each for the appellant, the local planning authority and any other Rule 6 parties. On larger inquiries where 2 Inspectors are appointed, or where an additional copy of documents is required for the Secretary of State, we will ask you to provide 2 copies for the Inspector(s).

4 Statement of common ground

4.1 The appellant and the local planning authority must jointly prepare a statement of common ground. This should list all agreed matters and should include basic facts such as the site description, area, planning history, relevant planning policies, and as many other matters as possible relating to the appeal site.

4.2 The statement of common ground must be received by us no later than 4 weeks before the start date of the inquiry.

4.3 With the agreement of the appellant and the local planning authority, Rule 6 parties can also agree a statement of common ground. This will establish those matters which are agreed with the main parties, which means that the inquiry can then focus on the issues which are in dispute. If you wish to do this you should contact the appellant and the local planning authority at the earliest opportunity - even if this is before you have asked us for "Rule 6 status".

4.4 If there is more than one Rule 6 party it can also be helpful if they can jointly produce a statement of common ground.

4.5 For further information please see Annexe D of our "Procedural Guide: Enforcement appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

or Annexe C of our "Procedural Guide: Certificate of lawful use or development appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/certificate-of-lawful-use-or-development-appeals-procedural-guide>

4.6 You may wish to familiarize yourself with the content of the relevant "Procedural Guide" depending on whether you are interested in an enforcement appeal or a lawful development certificate appeal.

5 Proofs of evidence

5.1 If you propose to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence you must send:

- 3 copies of it and any written summary to us; and
- one copy of it and any written summary to any statutory party;

no later than 4 weeks before the date fixed for the holding of the inquiry. However if the Inspector has specified a different timetable for the receipt of the proofs of evidence you must meet that timetable.

5.2 A 'proof of evidence' is the document containing the written evidence about which a person appearing at a public inquiry will speak. Proofs of evidence should be concise and ideally contain facts and expert opinion deriving from witnesses' own professional or local knowledge as applied to individual cases.

5.3 Accordingly, the main role of a 'proof of evidence' is to allow witnesses to:

- marshal previously provided evidence in a way which is convenient to the presentation of their case at the inquiry;
- give their professional opinion or opinion based on local knowledge on evidence provided by other parties in their statements of case.

5.4 Your proof of evidence should:

- refer to the information that your witnesses, wish the Inspector to take into account;
- cover only areas where you disagree with another party;
- contain the witness's concisely expressed opinion and argument;
- contain a clear cross reference to any supporting documents, for example containing data, analysis or copies of legal cases (which should have been listed in your statement of case and may have been supplied with it);
- not include new areas of evidence unless, exceptionally, there is good reason why new factual evidence has to await the exchange of written proof(s);
- not repeat or quote national or local policy, but should provide policy name and paragraph numbers;
- not omit necessary detail;
- not include long irrelevant biographical detail of the witness.

5.5 The evidence of each of your witness (es) should address distinct topics and not overlap another's.

5.6 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.

5.7 Summaries should concentrate on the main points at issue. They must 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.

5.8 If the proof of evidence includes evidence given by an expert witness please see Annexe J of our "Procedural Guide: Enforcement appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

or Annexe H of our "Procedural Guide: Certificate of lawful use or development appeal – England – 23 March 2016"

<https://www.gov.uk/government/publications/certificate-of-lawful-use-or-development-appeals-procedural-guide>

6 Core documents

6.1 These are documents that are of general/background relevance to the inquiry. With the agreement of the other parties, a document that will be referred to by more than one party can be added to the core documents list. Either the local planning authority or appellant may coordinate the core documents list. If you wish to suggest inclusion of a core document you should provide copies of that document to the appellant and to the local planning authority.

7 Sending documents to us electronically

7.1 Whilst we encourage electronic working, we strongly encourage parties additionally to provide hard copies of certain documents such as statements of case, proofs of evidence and appendices to ensure the smooth running of the inquiry. If any document is sent electronically we may ask you to provide hard copies if the document is particularly lengthy. Any printed copies must be of the final versions provided to us. Do not use hyperlinks within documents you send. If you wish to refer to a document then, if it is not a core document, it needs to be provided with your statement of case.

7.2 Please see Annexe F "Communicating electronically with us" of our "Procedural Guide: Enforcement appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

or Annexe D "Communicating electronically with us" of our "Procedural Guide: Certificate of lawful use or development appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/certificate-of-lawful-use-or-development-appeals-procedural-guide>

which contain additional guidance about sending us documents through the GOV.UK or by email

8 Pre-inquiry meetings

8.1 When an enforcement inquiry is likely to last 4 or more days a pre-inquiry meeting is usually held, although one may be held before a shorter inquiry. A pre-inquiry meeting is a public meeting but it is principally for the benefit of the Inspector and main parties. We will invite Rule 6 parties to attend the meeting.

8.2 The purpose of the meeting is to prepare for the actual inquiry by discussing procedural and other arrangements. No evidence about the case will be heard at the meeting. The meeting should help to ensure that the inquiry runs efficiently and will help everyone to concentrate on the main issues in dispute, saving time and expense for all.

9 Openness and transparency

9.1 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.

9.2 If you want 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, you should contact us and the local planning authority in advance to discuss arrangements.

10 Inquiry arrangements

10.1 We ask the local planning authority to arrange the inquiry venue. Inquiries are usually held in local planning authority offices, village halls or community centres. For further information please see the Planning Inspectorate: "The venue and facilities for public inquiries and hearings": <https://www.gov.uk/government/publications/setting-up-a-venue-for-a-public-inquiry-hearing-or-examination>

10.2 We will notify the appellant, the local planning authority and every person entitled to appear at the inquiry of the date, time, place and expected length of the inquiry and the name of the Inspector.

10.3 We want to hold all inquiries in buildings with proper facilities for people with disabilities. If you, or anyone you know, want to go to the inquiry and you have particular needs, please contact the local planning authority to confirm that they can make proper arrangements.

10.4 Inquiries usually open on a Tuesday at 10:00. Unless there has been a pre-inquiry meeting (see section 9 above) the Inspector will agree the sitting times with the main parties at the start of the inquiry. It is often agreed that the inquiry will start at 9:30 on subsequent days. Inquiries usually sit until about 17:00 or 17.30 each day but may finish earlier on a Friday. There will usually be a mid-morning and mid-afternoon break and a 1 hour break for lunch. The Inspector should not be approached during breaks as other participants in the inquiry would not know what was being said. Inquiries do not usually sit on a Monday.

10.5 At the discretion of the Inspector, and dependent on a suitable inquiry venue being available, an evening inquiry session is occasionally held if there are a significant number of interested parties who cannot attend during the daytime inquiry sessions.

11 Advocates

11.1 There is no requirement for anyone to be legally represented by a solicitor or barrister. However it is customary for each of the main parties at an inquiry to have an advocate representing them. Advocates do not need to have legal qualifications. Their role is to present their party's opening statement, go through each of their witness's evidence in chief, cross-examine the opposing parties' witnesses, and present their party's closing statement. When advocates are inexperienced the Inspector will assist and advise, where necessary, of the procedures to be followed.

11.2 If a Rule 6 party does not have an advocate then one of their witnesses can act as advocate. This is especially important if you wish to cross-examine any of the other main parties. If you do not nominate somebody to be your advocate then you will need to introduce yourself to the inquiry and present your proof of evidence without anyone taking you through it.

12 What happens at the inquiry?

12.1 An inquiry is the most formal of the appeal procedures, and it usually involves larger or more complicated appeals. An inquiry may last for several days, or even weeks. It is not a court of law, but the proceedings will often seem to be quite similar. Often expert evidence is presented and witnesses are cross-examined (questioned).

12.2 The Inspector will normally have seen the site location and the surrounding area before the inquiry event but will normally make a further accompanied visit during or after the inquiry.

12.3 When the Inspector opens the inquiry on the first day he/she will firstly deal with any 'housekeeping' matters (such as what the inquiry is about, where the fire exits are etc.). The Inspector will then usually give an outline of what will happen at the inquiry. The Inspector will ask whether there are any interested parties who wish to speak at the inquiry, this is often called "taking the appearances".

12.4 The order of appearances is at the discretion of the Inspector who will usually take into account the views of the parties and the

particular circumstances of the case. The Inspector will make it clear at the start of the inquiry what the order of appearances will be.

12.5 Normally the appellant will be asked whether they wish to make a brief opening statement, followed by the local planning authority. Whether the parties make an opening statement or not, the appellant will usually present his/her case first; the witnesses will give their evidence and the opposing side will be allowed to cross-examine (question) them.

12.6 After that the Inspector will normally ask (for each witness) if anyone who registered at the start of the inquiry that they wished to speak, and who opposes the case that has just been put forward, whether they have any questions to put to the witness.

12.7 This is followed by the other side presenting its case with witnesses being cross examined by the opposing side. Similarly, those who registered that they wished to speak and who oppose the case just put forward, will be asked if they have any questions to put to the witnesses. Rule 6 parties and then any other interested people who wish to speak will normally present their evidence after the appellant and the local planning authority have finished their cases.

12.8 The Inspector will usually ask if you are willing to answer questions about your evidence. You do not have to do this, though it is often helpful to do so and it may add weight to your evidence. Do not feel intimidated. The Inspector will not let anyone ask you hostile or unfair questions.

12.9 Each witness will be taken through their evidence by reading their summary proof of evidence and/or parts of their main proof. Leading questions, ie. a question in which the answer is suggested by the question, are not allowed (for example "Would you agree that..."). The witness then may be subject to cross-examination by opposing parties.

12.10 If you object to the proposal, the appellant's representative may ask you questions. If you support it, the local planning authority's representative may ask you questions. In turn, Rule 6 parties should ensure that their cross-examination of other parties is succinct, fair and relevant to the planning matters at issue.

12.11 After cross-examination, parties can do what is called "re-examination". If a witness has made a mistake or got in a muddle during their cross-examination, their advocate can try to correct things by discussing the subject again and asking further questions of their witness to ensure that their case is clarified. It is not the function of re-examination to invite the witness to revisit clear answers given in cross-examination.

12.12 For further information about the inquiry procedure please see Annexe D of our "Procedural Guide: Enforcement appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

or Annexe C of our "Procedural Guide: Certificate of lawful use or development appeals – England – 23 March 2016"

<https://www.gov.uk/government/publications/certificate-of-lawful-use-or-development-appeals-procedural-guide>

and our "Guide to taking part in enforcement and lawful development certificate appeals proceeding by an inquiry – England – 23 March 2016".

<https://www.gov.uk/government/publications/enforcement-appeals-dealt-with-by-an-inquiry-taking-part>

13 At the end of the inquiry

13.1 After the evidence has been heard the parties may make closing statements which are an opportunity to sum up their case. They are usually read out loud from a pre-prepared written version and this can be added to, by hand if necessary, before being given to the Inspector and other main parties.

13.2 After the closing statements the Inspector will normally close the inquiry. This is followed by the Inspector making arrangements to visit the appeal site.

13.3 If the inquiry was closed before the site visit no further detailed discussion on the merits of the case will be permitted during the formal site visit. This is because it could lead to further oral evidence being given by one party or interested person and could compromise the fairness, openness and impartiality of the process. The Inspector will necessarily be courteous but firm about not allowing any inappropriate discussions or comments to be made at the site visit.

13.4 However, where the parties have referred in their evidence to certain physical characteristics of a site, building or area, the Inspector will allow those to be pointed out.

14 Costs

14.1 There is no cost to being a Rule 6 party other than what you may incur in preparing your evidence (eg. photocopying, binding and posting) and attending the inquiry.

14.2 All parties to an appeal are normally expected to meet their own expenses.

14.3 There is guidance about costs awards in the Department for Communities and Local Government's planning practice guidance at: <http://planningguidance.communities.gov.uk/blog/guidance/appeals/>

14.4 It is important that you read this because it explains how, when and on what basis you can make an application or have an application made against you.

14.5 Costs may be awarded in response to an application for costs by one of the parties. Also costs may be awarded at the initiative of the Inspector.

14.6 The Inspector will remind parties that any application for costs should be made before the end of the inquiry.

15 The decision

15.1 If it is an inquiry into a "recovered" appeal to be decided by the Secretary of State, the Inspector will write a report with recommendations to the Secretary of State. Our Case Officer will normally write to the parties, within 10 working days of the close of the inquiry, to let them know the date by which the Secretary of State's decision will be issued.

15.2 For other appeals the decision will be made by the Inspector.

15.3 When made, the decision (either by the Inspector or the Secretary of State) will be published on the GOV.UK and can be viewed using the search facility: <https://www.gov.uk/appeal-planning-inspectorate>

16 Contacting us

16.1 To contact us about a particular appeal you should contact our Case Officer – the local planning authority should have given you their details. For general enquiries our contact details are:

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Helpline: 0303 444 5000

E-mail: enquiries@planning-inspectorate.gsi.gov.uk

17 Planning Aid

17.1 You may also wish to contact Planning Aid, who offer free, independent and professional planning advice to communities and individuals who cannot afford to pay professional fees.

Planning Aid England
41-42 Botolph Lane
London
EC3R 8DL
Advice Line: 0330 123 9244
Switchboard: 020 7929 9494
Fax: 020 7929 9490
Email: info@planningaid.rtpi.org.uk
Website: www.rtpi.org.uk/planningaid

Timetable for the inquiry procedure

Timetable	Interested people	Appellant	Local planning authority
<p>Appeal received</p> <p>We set the start date and the timetable</p>		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
<p>Within 2 weeks from the start date</p>	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
<p>Within 6 weeks from the starting date</p> <p>(Only exceptionally will we accept late statements or representations)</p>	Send their representations to us	Sends us their inquiry statement)	Sends us its inquiry statement
	Note – Rule 6 parties send us their inquiry statement normally within 4 weeks of our letter which grants them "Rule 6 status".		
<p>We set the inquiry date which will normally be within 20 – 22 weeks of the start date</p>			
<p>Within 9 weeks from the start date.</p> <p>(We will not normally accept late comments)</p>		Sends us their final comments on the local planning authority's statement and on any representations from people. No new evidence is allowed	Sends us its final comments on the appellant's statement and on any representations from interested people. No new evidence is allowed
<p>4 weeks before the inquiry</p>	Rule 6 parties send us their proof of evidence	Sends us their proof of evidence. (And the agreed statement of common ground	Sends us its proof of evidence. It may put a notice in a local paper about the inquiry
<p>At least 2 weeks before the inquiry</p>	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
<p>No later than 10 working days before the inquiry</p>		If there is one, sends us the draft planning obligation	