



STATEMENTS OF COMMON/UNCOMMON GROUND FOR INQUIRIES

1. Statements of common/uncommon ground are essential to ensure that the evidence considered focuses on the material differences between the appellant and the local planning authority. They provide a commonly understood context to inform the subsequent production of proofs of evidence.
2. When the appeal is lodged, the appellant must submit a **draft** statement of common/ uncommon ground comprising a written statement setting out factual information about the proposal that the appellant considers will/will not be disputed by the local planning authority.
3. An **agreed** statement is to be submitted within five weeks of the start date, signed off by the appellant and the local planning authority. This is to be prepared jointly by both parties and can be based on the appellant's earlier draft. Working together in agreeing a statement of common ground will assist the parties in providing relevant evidence, reduce the quantity of material which needs to be presented and considered, and help inform the early engagement process.
4. As well as identifying relevant areas of agreement, the statement is to focus on those areas where there is no consensus, ie where there is uncommon ground. This will help narrow the issues at the Inquiry and, importantly, will inform the evidence of the parties, allowing for concentration on the remaining areas of dispute.
5. Additional, more detailed topic-specific statements of agreed common/uncommon ground relating to the main issues raised by the development proposed may also be requested by the Inquiry Inspector as part of the early case management process. Depending on the issues arising, those statements may need to be agreed with parties other than the LPA eg a Rule 6 party¹ or the Highway Authority. They must inform and are to be submitted at the same time as, the respective proofs.
6. The various agreed statements of common/uncommon ground can also be used to inform a subsequent Position Statement on Main Issues.
7. In order to support an effective and timely planning system in which all parties are required to behave reasonably, it is important that statements are submitted in accordance with the timings referred to above. You are reminded, in this regard, that the Inspector has the power to initiate an award of costs in line with the Government's Planning Practice Guidance and that unreasonable behaviour may include not complying with the prescribed timetables.

¹ Those wishing to take a very active part in the Inquiry may seek 'Rule 6 status'. For further information see https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/514284/guide_rule_6_planning_April_2016.pdf

Pro-forma for agreed main statement of common/uncommon ground

A template for statements will be included on the new portal in due course. In the meantime, statements should adopt the following format.

1. Appeal reference.
2. Site address.
3. Agreed description of development.
4. List of plans that informed the Council's decision (if non-determination, the list should comprise the latest iteration of the plans on which the Council consulted) including, in the case of outline applications, relevant indicative/illustrative plans.
5. List of any new plans not previously seen or consulted on by the local planning authority, including a brief explanation of any revisions or amendments with reference to the 'Wheatcroft Principles':²
6. Relevant planning history.
7. List of the most important development plan policies for determining the application,³ focussing in particular on those recited in the reasons for refusal (or putative reasons in cases of non-determination). The policies do not need to be recited in full.
8. Other relevant planning policy/guidance/material considerations and weight to be afforded.
9. Areas where the parties are working together and there is a prospect of resolving a related reason for refusal.
10. A table setting out areas of agreement and disagreement in relation to each remaining reason for refusal (or putative reason for refusal where the appeal is against non-determination) on a topic by topic basis. An example of such is attached at Appendix A.
11. List of possible conditions and the reasons for them (including any policy support) attached as an Appendix to the statement. The list is to include any conditions that are not agreed, with reasons for the disagreement.
12. A statement of compliance with statutory and policy requirements for the conditions and Section 106.
13. Draft heads of terms of any Section 106 obligations, attached as an Appendix to the statement.
14. Core Documents list appended to the statement, based on the attached template at Appendix B (adapted to suit) which list can be added to during the course of the appeal if necessary. The Core Documents should comprise **only** those documents to which you will be referring. Where any documents on which it is intended to rely are lengthy, only relevant extracts need to be supplied, prefaced with the front cover of the relevant document and should include any accompanying relevant contextual text.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37])

³ Paragraph 11.d) of the National Planning Policy Framework

APPENDIX A

Example of table of areas of agreement/disagreement

Areas of Agreement		
Topic - Landscape		
	Appellant	LPA
1.	Eg. The site is not a valued landscape.	Eg. The site is not a valued landscape for the purposes of the NPPF. It is however valued by local residents which is a material planning consideration.
2.	Eg. The methodology for the LVIA is sound.	Eg. The methodology for the LVIA is not disputed.

Areas of Disagreement			
Topic - Landscape			
	Appellant	LPA	Prospect of Resolution?
1.	Eg. The site itself is of medium landscape value.	Eg. The site is of high landscape value.	N
2.	Eg. The effects on users of the PRoW are robust and conclude that there will be moderate/high adverse impacts on day one, reducing to moderate impact at year 15.	Eg. The effects of users of the PRoW have been downplayed by the appellant. The effects will be high on day one and are incapable of being mitigated.	N
3.	Eg. The site cannot be seen from viewpoint 3. The development will also not be visible from this VP.	Eg. The site cannot be seen. It is unclear as to whether the development will be visible.	Y – subject to photo montages

NOTE: Table will be most effective in landscape and printed at A3.

APPENDIX B

TEMPLATE FOR FORMAT OF CORE DOCUMENTS LIST (adapt headings to suit)

CD1	Application Documents and Plans
1.1	
1.2 etc	
CD2	Additional/Amended Reports and/or Plans submitted after validation
2.1	
2.2	
CD3	Committee Report and Decision Notice
3.1	Officer's Report and minute of committee meeting
3.2	Decision Notice
CD4	The Development Plan
4.1	
4.2	
CD5	Emerging Development Plan
5.1	
5.2	
CD6	Relevant Appeal Decisions*
6.1	
6.2	
CD7	Relevant Judgements*
7.1	
7.2	
CD8	Other
8.1	
8.2	

* Any Appeal Decisions on which a party intends to rely must each be prefaced with a note explaining the relevance of the Decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.