



Appeals under section 289 of the Town & Country Planning Act 1990

Notes for guidance for court users

Appeals

1. Where the Secretary of State has given a decision in proceedings on an appeal under Part VII of the Town and Country Planning Act 1990 against an enforcement notice the appellant, the local planning authority or another person having an interest in the land to which the notice relates, may appeal against the decision on a point of law.
2. Where the Secretary of State has given a decision in proceedings on an appeal under Part VIII of the Act against a notice under section 207 of the Act the appellant, the local planning authority or anyone on whom the notice was served, may appeal against the decision on a point of law.
3. Where the Secretary of State has given a decision in proceedings on an appeal under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a listed building enforcement notice, the appellant, the local planning authority or any other person having an interest in the land to which the notice relates, may appeal against the decision on a point of law.

Permission of the Court is required to bring these appeals.

Regional venues of the Planning Court

An appeal may be started, administered and determined at one of the following venues:

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|---------------------------------|--|
| Royal Courts of Justice | Administrative Court Office, Royal Courts of Justice, Strand, London, WC2A 2LL |
| Birmingham Civil Justice Centre | Priory Courts, 33 Bull Street, Birmingham, B4 6DS |
| Cardiff Civil Justice Centre | 2 Park Street, Cardiff, CF10 1ET |
| Leeds Combined Court Centre | 1 Oxford Row, Leeds, LS1 3BG |
| Manchester Civil Justice Centre | 1 Bridge Street West, Manchester, M60 9DJ |

What are the time limits?

The application for permission to appeal must be made within 28 days **after the date on which notice of the decision was given to the applicant**. The Court has the power to extend the time. If the application is lodged out of time, the reasons for delay must be given within the grounds of the application. All documents in support of the application must be served on the Respondent(s) before the application can be lodged at the Planning Court in the Administrative Court Office.

What documents are required to make an application¹?

The application must be in writing and must set out the reasons why permission should be granted.

The applicant must file the application at the Planning Court in the Administrative Court Office with:

- a. a copy of the decision being appealed;
- b. a draft appellant's notice;
- c. a witness statement or affidavit verifying any facts relied on; and
- d. a witness statement or affidavit giving the name and address of, and the place and date of service on, each person who has been served with the application. If any person who ought to be served has not been served, the witness statement or affidavit must state that fact and the reason why the person was not served.

When will the application for permission be heard?

The application will be heard by a single judge. Unless the court orders otherwise, the hearing will not take place until at least 21 days after the application was filed at the Administrative Court Office.

Any person served with the application is entitled to appear and be heard. Any respondent who intends to use a witness statement or affidavit at the hearing must file it at the Planning Court in the Administrative Court Office and serve a copy on the applicant as soon as is practicable and in any event, unless the court otherwise allows, at least 2 days before the hearing.

The court may allow the applicant to use a further witness statement or affidavit.

¹ See Civil Procedure Rules, Practice Direction 52, para 22.6C

What happens if permission is granted?

Where the court grants permission the judge may impose terms as to costs and as to giving security.

The appellant's signed notice of appeal (N161) must then be served and filed within seven days of the grant. The original notice and four copies are required by the Planning Court. Three copies of the notice will be sealed and returned for the appellant to serve the respondents. The original and one copy will be retained on the Court file.

A fee is payable on filing the notice of appeal.

Solicitors or Company's cheques are both acceptable. Personal cheques are not acceptable unless supported by a Banker's cheque guarantee card, presented at the time of lodging the application. Litigants in person may use postal orders.

The appellant's a skeleton argument should be lodged with, or be included in, the appellant's notice. Where it is impracticable for the appellant's skeleton argument to accompany the appellant's notice it must be filed and served on all respondents within 14 days of filing the notice².

If you are not represented, you need not file a skeleton argument but you are encouraged to do so since this will be helpful to the court

Who does the appellant serve?

The persons to be served with the appellant's notice are:

- a. the Secretary of State;
- b. the local planning authority who served the notice or gave the decision, as the case may be, or, where the appeal is brought by that authority, the appellant or applicant in the proceedings in which the decision appealed against was given;
- c. in the case of an appeal brought by virtue of section 289(1) of the Town and Country Planning Act 1990 or section 65(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, any other person having an interest in the land to which the notice relates; and
- d. in the case of an appeal brought by virtue of section 289(2) of the Town and Country Planning Act 1990, any other person on whom the notice to which those proceedings related was served.

² See Civil Procedure Rules, Practice Direction 52, paras 5.9 to 5.11

The Government Legal Department accepts service on behalf of the Secretary of State. His address is:

The Government Legal Department
Planning Section (D3)
One Kemble Street
London
WC2B 4TS
DX: 123242 Kingsway

What happens next?

Any respondent who wishes to address arguments to the court must file a skeleton argument at least seven days before the hearing of the appeal³.

All parties should lodge, as soon as possible, the evidence on which they will seek to rely.

When will the appeal be heard?

After the appellant's notice is filed, the case will go into the warned list (as ready to be fixed).

You will be notified when the case enters the Warned List.

The case may be fixed at any time from entry into the Warned List. Enquiries as to listing should be made to the Planning Court List Office in the Region in which the case is being administered.

If you require any further information, please contact the Planning Court in the Region in which the case is being administered.

³ See Civil Procedure Rules, Practice Direction 52, paragraphs 7.1 to 7.3. A respondent who wishes to appeal or who wishes to ask the court to uphold decision for reasons different from or additional to those given by the Secretary of State may file a respondent's notice. In that case, the skeleton argument should be lodged with, or be included in the respondent's notice. Where it is impracticable for the skeleton argument to accompany the respondent's notice it must be filed and served on all other parties within 14 days of filing the notice.