



The Planning Inspectorate

Guide to Rule 6 for interested parties involved in an inquiry – planning appeals and called-in applications – England

April 2016

Guide to Rule 6 for interested parties involved in an inquiry – planning appeals and called-in applications

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 send within 4 weeks of being so required –

- (a) 3 copies of their statement of case to him; and*
- (b) a copy of their statement to any statutory party,*

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 (for an appeal) or the applicant (for an application which has been “called-in”).

2.3 For further information please see our “Procedural Guide: Planning appeals – England – 23 March 2016”:

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

This document is subsequently referred to throughout this guide, other than for information on a called-in planning application. For further information about a called-in planning application please see Annex A of

¹ These are:

The Town and Country Planning (Inquiries Procedure) (England) Rules 2000
The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000

our "Procedural Guide: Planning appeals and called-in planning applications – England – 23 March 2016":

<https://www.gov.uk/government/publications/called-in-planning-applications-procedural-guide>

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.

2.5 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 applicant/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.

3 The inquiry procedure - bespoke appeals and called-in applications

3.1 For inquiries:

- expected to sit for 3 days or more; or
- being held into a called-in planning application;

we will invite the appellant (or applicant in a called-in application), the local planning authority and any Rule 6 party to agree a bespoke programme, which will set out the timetable for the case.

3.2 For further information please see our "Procedural Guide: Planning appeals – England – 23 March 2016:

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

Annexe H: "Cases following a bespoke timetable".

3.3 For appeals which do not follow a bespoke timetable, at Annexe A there is a timetable for planning appeals:

- where the local planning authority's decision notice is dated 30 September 2013 or earlier;
- where the local planning authority was due to make its decision on 30 September 2013 or earlier but has failed to do so;
- which are recovered for the Secretary of State to make the decision (rather than one of our Inspectors). This does not depend on the date of the local planning authority's decision.

3.4 For appeals which do not follow a bespoke timetable at Annexe B there is a timetable for planning appeals:

- where the local planning authority's decision notice is dated 1 October 2013 or later;
- where the local planning authority was due to make its decision on or after 1 October 2013 but has failed to do so.

3.5 It is very important for all parties to keep to the timetable for the receipt of documents, whatever timetable the appeal is following.

4 Statement of case

4.1 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".

4.2 For appeals where the dates in paragraph 3.3 apply and for called-in applications – 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.

4.3 For appeals where the dates in paragraph 3.4 apply you need to provide a **full** statement of case. A "full statement of case means, and is comprised of, a written statement which contains full particulars of the case which a person proposes to put forward and **copies of any documents** which that person intends to refer to or put in evidence". For further information please see Annexe J of our "Procedural Guide: Planning appeals – England – 23 March 2016":

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

4.4 You must send us one copy of your statement of case/full statement of case for the Inspector and one each for the appellant or applicant, 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).

5 Statement of common ground

5.1 The appellant/applicant 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 application.

5.2 For planning appeals which are not following a bespoke timetable, please see Annexe T to see when the agreed statement of common ground must be received by us.

5.3 With the agreement of the appellant/applicant 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/applicant and the local planning authority at the earliest opportunity - even if this is before you have asked us for "Rule 6 status". The local planning authority will be able to tell you the deadline for the

agreed statement of common ground.

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

5.5 For further information please see Annexe T of our "Procedural Guide: Planning appeals – England – 23 March 2016":

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

6 Proofs of evidence

6.1 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 appeal is following a bespoke timetable or the Inspector has specified a different timetable for the receipt of the proofs of evidence you must meet that timetable.

6.2 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.

6.3 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.

6.4 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 provided with your statement of case;
- 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.

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

6.6 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.

6.7 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.

6.8 If the proof of evidence includes evidence given by an expert witness please see Annex O of our "Procedural Guide: Planning appeals – England – 23 March 2016":

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

7 Core documents

7.1 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/applicant 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/applicant, the local planning authority and to any other statutory party.

8 Sending documents to us electronically

8.1 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.

8.2 Please see Annex I "Communicating electronically with us" of our "Procedural Guide: Planning appeals – England – 23 March 2016"

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

for additional guidance about sending us documents through the Planning Portal or by email.

9 Pre-inquiry meetings

9.1 When a planning inquiry is likely to last 8 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.

9.2 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.

10 Openness and transparency

10.1 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.

10.2 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.

11 Inquiry arrangements

11.1 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>

11.2 We will notify the appellant/applicant, 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.

11.3 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.

11.4 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.

11.5 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.

12 Advocates

12.1 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.

12.2 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.

13 What happens at the inquiry?

13.1 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).

13.2 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.

13.3 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".

13.4 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.

13.5 Each of the main parties will make their opening statements, which set out what their case will be. For a planning inquiry the order of these is usually the appellant/applicant, the local planning authority and then any Rule 6 parties. When the witnesses give their evidence it is usual for the local planning authority to go first, followed by any Rule 6 parties that oppose the appeal/application, then any Rule 6 parties that support the appeal/application and finally the appellant/applicant. The order may be different for call-in inquiries.

13.6 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.

13.7 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.

13.8 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.

13.9 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.

14 At the end of the inquiry

14.1 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.

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

14.3 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.

14.4 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.

15 Costs

15.1 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.

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

15.3 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/>

15.4 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.

15.5 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.

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

16 The decision

16.1 If it is an inquiry into a called-in application or 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.

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

16.3 When made, the decision (either by the Inspector or the Secretary of State) will be published on GOV.UK and can be viewed using the search facility:

<https://www.gov.uk/appeal-planning-inspectorate>

17 Further information

17.1 For further information about inquiries please see our "Guide to taking part in planning appeals proceeding by an inquiry – England – 23 March 2016":

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

18 Contacting us

18.1 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

19 Planning Aid

19.1 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 (for appeals not following a bespoke timetable)

This applies to appeals:

- where the local planning authority's decision notice is dated 30 September 2013 or earlier;
- where the local planning authority was due to make its decision on 30 September 2013 or earlier but has failed to do so; and
- which are "recovered" for the Secretary of State (rather than one of our Inspectors) to decide (this does not depend on the date of the local planning authority's decision).

Timetable	Interested people, including Rule 6 parties	Appellant	Local planning authority
<p>Appeal received</p> <p>We set the start date and the timetable</p>		<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</p> <p>Note - for an appeal where the date of the local planning authority decision is 1 October 2013 (which is subsequently recovered) the appellant will send their full statement of case. and a draft statement of common ground at this point</p>	<p>Receives the appeal documents</p>
<p>Within 2 weeks from the start date</p>	<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</p>	<p>Receives a completed questionnaire and any supporting documents from the local planning authority</p>	<p>Sends the appellant and us a completed questionnaire and supporting documents. It writes to interested people about the appeal</p>
<p>Within 6 weeks from the starting date</p> <p>Only exceptionally will we accept late statements or representations</p>	<p>Send their representations to us</p> <p>Note – Rule 6 parties send us their inquiry statement normally within 4 weeks of our letter which grants them "Rule 6 status".</p>	<p>Sends us their inquiry statement and the statement of common ground that they have agreed with the local planning authority)</p> <p>Note - for an appeal where the date of the local planning</p>	<p>Sends us its inquiry statement</p> <p>Note - for an appeal where the date of the local planning authority decision is 1 October 2013 (which is subsequently recovered) the local planning authority provides the agreed</p>

		authority decision is 1 October 2013 (which is subsequently recovered) the appellant would have already sent their full statement of case – so they do not have the opportunity to provide a statement of case at the 6 week stage	statement of common ground at the 6 weeks stage
We set the inquiry date which will normally be within 20 – 22 weeks of the start date			
4 weeks before the inquiry	Rule 6 parties send us their proof of evidence	Sends us their proof of evidence.	Sends us its proof of evidence. It may put a notice in a local paper about the inquiry
At least 2 weeks before the inquiry	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
No later than 10 working days before the inquiry		If there is one, sends us the draft planning obligation	

Timetable for the inquiry procedure (for appeals not following a bespoke timetable)

This applies to appeals:

- where the local planning authority's decision notice is dated 1 October 2013 or later;
- where the local planning authority was due to make its decision on or after 1 October 2013 but has failed to do so.

It does not apply to appeals

- which are "recovered" for the Secretary of State to decide.

Timetable	Interested people including Rule 6 parties	Appellant	Local planning authority
Appeal received We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the local planning authority. The full statement of case must make up the full case. Also provides a draft statement of common ground	Receives the appeal documents
Within 1 week from the start date	Receive the local planning authority's letter about the appeal, telling them that they must send us any representations within 5 weeks of the start date	Receives a completed questionnaire and any supporting documents from the local planning authority	Sends the appellant (or applicant) and us a completed questionnaire and supporting documents. It writes to interested people about the appeal
Within 5 weeks from the start date Only exceptionally will we accept late statements or representations	Send their representations to us Note – Rule 6 parties send us their inquiry statement normally within 4 weeks of our letter which grants them "Rule 6 status"		Sends us its full statement of case and the agreed statement of common ground
We set the inquiry date which will normally be within 16 weeks of the start date			
4 weeks before the inquiry	Rule 6 parties send us their proof of evidence	Sends us their proof of evidence.	Send us its proof of evidence. It may put a notice in a local paper about the inquiry
At least 2 weeks before the inquiry	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
No later than 10 working days before the inquiry		If there is one, sends us the draft planning obligation	