



# Planning Inspectorate

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# Operational Update - About Us

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# Operational Update

**We are committed to improving  
Enforcement performance**

**We are committed to improving our  
customer service**

**3 key improvements in Digital,  
Process and Engagement**

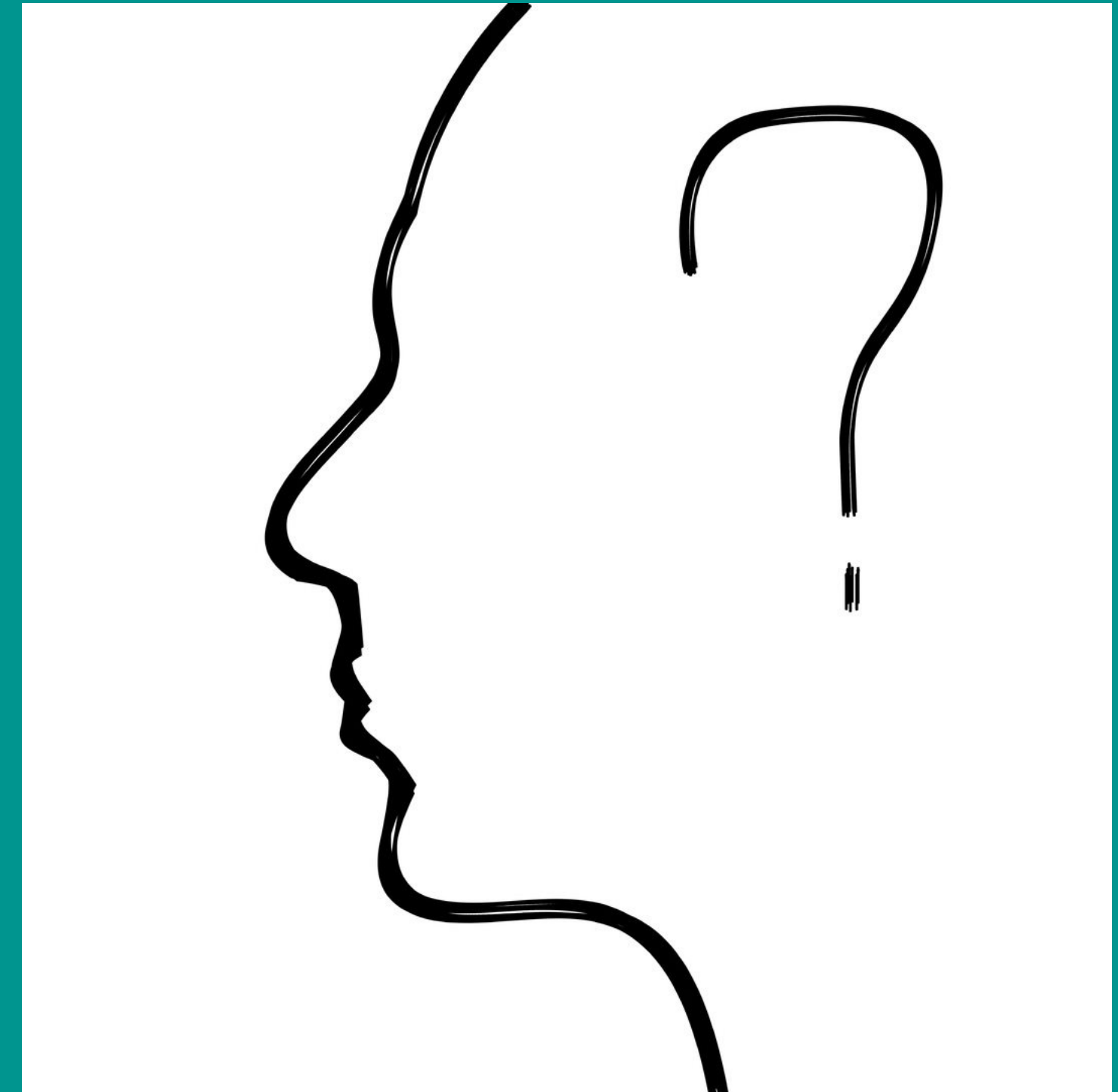


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# Our digital service for customers

## Why – problems we want to resolve

- Focus on getting us the right information
- Make submission intuitive for all customers
- Provide better updates on progress of appeals





# Our digital service for customers

**How - Design a new digital submission service**

**Focus on customers**

**Get the right information.**

**So far**

- **Discovery and Research**
- **Created live S78 and HAS appeal submission process**
- **30 LPAs areas can use this service for s78 and HAS appeals**
- **Using these designs to iterate the design and research for Enforcement and LDC submissions**



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# Our digital service for customers

## What next

- S78 and Has - New submission service designed and final comments and submission of proofs will come next
- Increase usage in more LPA areas
- Using designs to iterate for Enforcement and LDC submissions
- Looking at the submission of LPA documents – Questionnaires and proofs

**GOV.UK** Appeal a planning decision

**BETA** This is a new service – your [feedback](#) will help us to improve it.

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Choose your grounds of appeal

**Which statements apply to your case?**

Select all that apply.

- ☐ **Ground A**  
The supposed breach of planning control should be allowed
- ☐ **Ground B**  
The supposed breach of planning control never happened, or is not being used in the way that the local planning department says it is
- ☐ **Ground C**  
The supposed breach of planning control does not need planning permission
- ☐ **Ground D**  
The local planning department missed its deadline to take action
- ☐ **Ground E**  
The local planning department did not serve copies of the enforcement notice as they're legally required to
- ☐ **Ground F**  
There's more work to do than is needed to undo the supposed breach of planning control
- ☐ **Ground G**  
More time is needed to undo the supposed breach of planning control

[Continue](#)



# Volumes

**Why – End-to-end times for Enforcement appeals are too long**

**How -**

- **Continue to increase number of Inspectors trained to determine Enforcement appeals**
- **Continue to focus on inquiries and hearing**
- **Get event dates scheduled asap**

**When – On-going. Success to date = open inquiry cases are down a third on 2020.**



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# Timeliness – Rosewell principles

**Why -** Inquiries and hearings take too long, long waits for dates

**How -** Use Rosewell principles

- Start appeals quickly
- Align with appeal times across all appeal types end to end time of 24-26 weeks
- Event within 14 weeks of appeal submission
- Appellants and LPAs to be fully prepared to meet the timetable, including ensuring they are available to participate in the hearing

**When –** In the next few months we will plan implementation – we will keep you posted. Likely to be a long process to fully implement.



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# Engagement

**Why – Engagement and shared learning has been positive**

**How -**

- Continue engagement seminars to share learning open to agents
- Cover specific topics and also operational updates
- Virtual and face to face seminars
- Shared learning across stakeholders

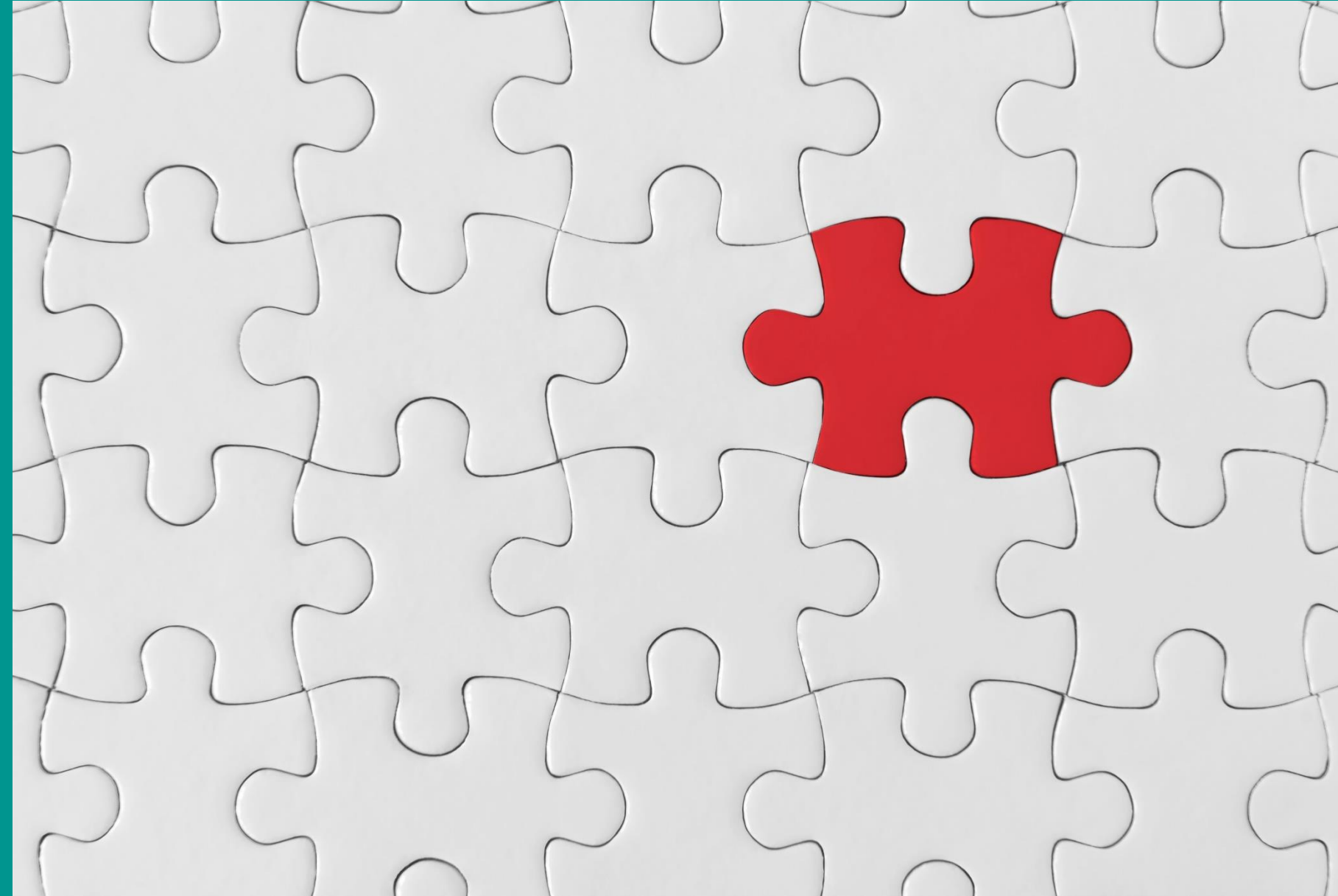
**When – A programme will set out our engagement from late autumn -**

<https://planninginspectorate.blog.gov.uk/2022/04/06/effective-enforcement-new-outreach-programme-to-help-planners/>



# How can you help us ?

- Participate in our research for the new digital service
- Work electronically with us – use the website
- Notification letters – Check information is correct
- Be GDPR compliant
- Work to timetables
- Provide all the information early
- Intention to appeal - Make it clear



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# The Enforcement Landscape



**Key Issues in Enforcement Appeals**

**&**

**Learning from good practice**



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# Key Issues: Residential Uses

- Rise in housing cases
  - *Permitted Development Rights and prior approval*
  - *HMOs / self-contained flats*
  - *Air BnB / holiday home*
  - *Beds in sheds*
  - *Annexes*
  - *Caravans and houseboats*
  - *Breach of occupancy conditions / holiday sites*
- Reflects the type of issues faced by Council's at local level
- Difficult legal questions – PDR, immunity and concealment
- Complex issues around HMOs/flats and dwellinghouses
- Can give rise to human rights issues

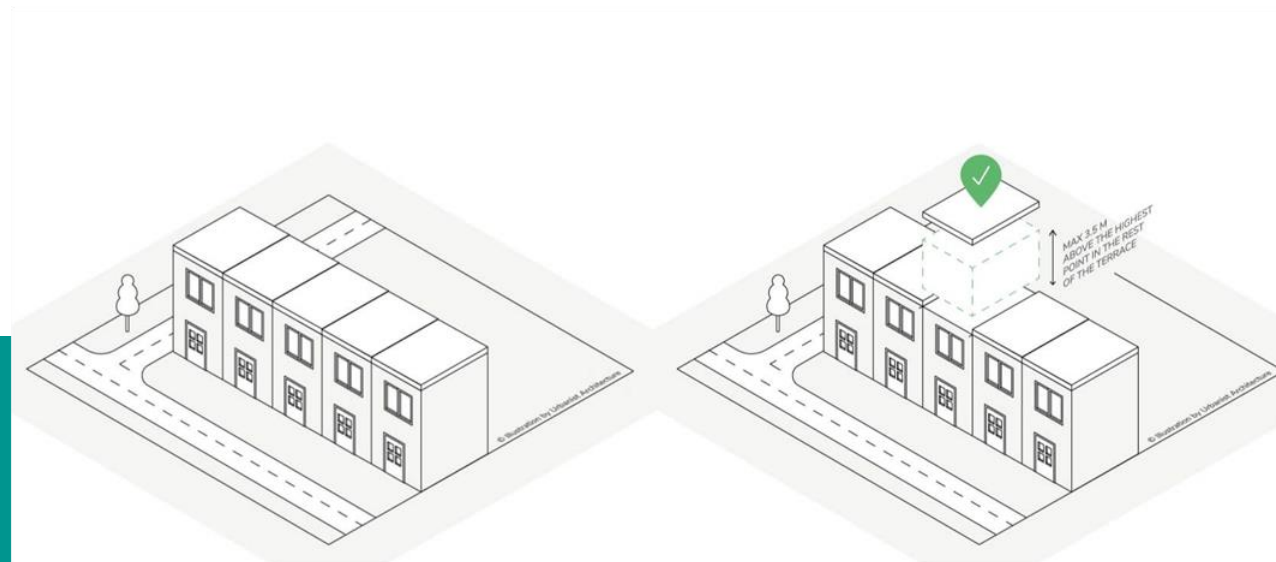




# Key Issues: Permitted Development

- **Themes**

- *HMOs and PDR*
- *Upward extensions*
- *Class E – ‘reasonably required’*
- *Class E – ‘incidental’*
- *Part 20 – construction of new dwellings*
- *Part 3 change of use*



# Key Issues: Permitted Development

- Care is needed with definitions, words used & always read what the legislation actually says
- Interaction with other regulations
- 3-stage approach - Is the development permitted by the GPDO? Does/would the development comply with limitations? Does/would the development comply with conditions?
- Has there been a breach of condition imposed on a PDR?
- Always apply the version of the GPDO which was in force when the development was undertaken.





# Key Issues: Material Change of Use

- What is the new use? Character?
- What is the planning unit?
- Has there been a **material** change of use? **Or** is the new use incidental to the existing primary use(s)?
- Is there a mixed use? What are the components?
- How long has the whole mixed use been taking place?
- Is there any (associated) operational development?



# Key Issues: the 'Immunity' Period

- Operational development – 4 years; s171B(1)
- Change of use to a dwellinghouse **or** breach of condition which prevents use as a dwellinghouse – 4 years; s171B(2)
- Other change of use or other breach of condition – 10 years; s171B(3)
- Use as a dwellinghouse with no prior use?
- Operations to facilitate MCU?
- Effect of s171B(4): **10 + 4** years?





# Be aware of common mistakes



## Check the Enforcement Notice

- Is the land correctly identified?
- Is the breach correctly identified?
- Do the requirements tally with the breach?
- Talk to Legal...and
- Participate in our outreach project.



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# Drafting the Notice

1. Allegation: WPP material change of use of land from agriculture to agriculture and stationing of caravan.

Requirements: Cease use of land for stationing of caravan

2. Allegation: WPP material change of use for storage and construction of hardstanding and erection of fence

Requirements: 1. Cease use of land; 2. Remove hardstanding; 3. Reduce height of fence to 1m. 4. Restore land to original condition prior to breach.





# Drafting the Notice

3. Allegation: WPP the erection of building  
Requirement: Demolish Building.

4. Allegation: WPP (a) erection of dormer window;  
(b) installation of uPVC windows;  
(c) construction of chimney.

Requirements: (a) remove dormer window;  
(b) remove uPVC windows; (c) Demolish chimney;  
(d) restore building to its original condition



# Written Representations

## – good practice

Contents

- 1. Introduction
- 2. Before making an appeal
- 3. How to make an appeal
- 4. The appeal
- 5. After the appeal is submitted
- 6. How the decision is made
- 7. The role of interested people
- 8. The procedures
- 9. Other issues
- 10. Conditions and Planning Obligations
- 11. The Decision
- 12. Complaints, challenges and feedback
- 13. Getting help
- 14. How we use your personal information

 Print this page

Timetable	Interested people	Appellant	LPA
<b>Appeal received.</b> We set the start date and the timetable		Sends the appeal form and all supporting documents to us and the LPA (See 8.2.4)	Receives the appeal documents
<b>Within 2 weeks from the start date</b>	Receive the LPA's letter about the appeal, telling them that they must send us any representations within 6 weeks from the start date (See 8.2.5)	Receives a completed questionnaire and any supporting documents from the LPA (See 8.2.6)	Sends the appellant and us a completed questionnaire and supporting documents (See 8.2.4). It writes to interested people about the appeal (See 8.2.5)
<b>Within 6 weeks from the start date</b> (Only exceptionally will we accept late representations)	Send their representations to us (See 8.2.9)	Sends us any further representations (See 8.2.8)	If the LPA decides not to treat the questionnaire and supporting documents as its representations it sends us its further representations (See 8.2.7)
<b>Within 9 weeks from the start date</b>		Sends us their final comments on the LPA's 'week 6' representations and on any comments from interested people (See 8.2.10) No new evidence is allowed	Sends us its final comments on the appellant's 'week 6' representations and on any comments from interested people (See 8.2.10) No new evidence is allowed
<b>The Inspector visits the site (See 8.2.11) and the decision is issued later</b>			

8.2.2 The written representation procedure

Write clearly and simply with an easy-to-follow story – quality not quantity

Questionnaire – have you included all relevant information copy of the notice relevant policies  
IPs representations

Notification letters  
Have you clearly told IPs what they need to do within 6 weeks of the start date?

Send us your 6-week statement without delay

Send us your comments on appellant's statement at 9-week stage, but don't add new material

Electronic working  
prepare your docs with that in mind



# Written Representations



**Guide to taking part in enforcement appeals and lawful development certificate appeals proceeding by written representations - England**

Don't assume the Inspector has other documents & tell us of any material change in circumstances

Consistency?

Conditions – where relevant to the appeal

Ground (a)/s78  
Development Plan  
SPDs  
Other material considerations

Dated photographs  
Planning history  
Investigation  
Negotiations

Have a plan with any places you would like the Inspector to view the site from

Officer Report or Statement of Case – structure and reasons

Efficiently address any application for costs

# Hearings



**Key dates**

**Statement of Case – quality v quantity**

**Late evidence – so what?**

**Role of the Inspector – discharge the  
“inquisitorial” burden**

**Be prepared 😊**

**Statement of CG – good practice**

**Future improvements**



# Public Inquiries

- Formal testing of evidence with cross examination and/or evidence on oath
- Initial submissions should include information on number of appellant's witnesses
- LPA – Questionnaire & no of witnesses
- Statement of Common Ground (very important!)
- Statement of case submitted @ 6-week stage – where/how can the documents be viewed?
- Proofs of evidence – 4 weeks before the event along with agreed SOCG
- Inspector may determine that a 'combined procedure' blending hearing/'round-table' as well as WR



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# Public Inquiries

Proofs of Evidence (4 weeks before event):

- Information witnesses representing the parties wish the Inspector to take into account
- Cover only areas which remain at issue and not new areas of evidence or arguments
- Concisely expressed argument and evidence supported by technical appendices
- Case law – append full Court report/transcript reference and cross refer to it
- Include any data referred to, outline assessment methodology, the assumptions used
- Deal with conditions
- Do not repeat or quote national or local policy, but do provide policy and paragraph numbers
- Do not include long irrelevant biographical detail of the witness.





# Practical tips - xx

- Don't be afraid to agree/disagree
- Answer the question,
- But don't go outside your expertise
- Be succinct
- Avoid imprecise language
- Avoid emotive language
- Never interrupt
- Don't be rude or discourteous (whatever the provocation!)
- Don't make jokes!
- Keep your composure but watch out for intimidation

Achieve	Cross-examiner aims to: achieve agreement where possible, identify weaknesses in your analysis, undermine your credibility, emphasise strengths of other side's position & leading questions permitted
Keep	Keep voice up
Speak	Speak slowly
Pause	Pause before answering
Address	Address answer to Inspector
Ask	If you didn't hear, ask for question to be repeated
Ask	If you didn't understand, ask for question to be repeated or rephrased
Ask	If you need time before answering, ask for it
Guess	No need to guess but answer the question!



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