



SHREWSBURY TOWN COUNCIL

Planning Appeals Procedure

INTRODUCTION

For an appeal against a refused application the Town Council is given notice as a planning consultee. This will usually state how the appeal will be heard (exchange of statements or a full-blown hearing). We will be given details of how to make any representations and by when. Routinely we have relied on the fact that the comments we make to the Planning Authority as part of the planning process will form part of the defence bundle and will be considered by the Planning Inspector but this may not always be the case. The Town Council therefore needs to establish a process whereby we ensure that we make separate representations to the Planning Inspectorate where we have objected to a planning application which subsequently goes to appeal.

CONTRIBUTING TO AN INQUIRY

“Rule 6 status” refers to Rule 6(6) of the Inquiries Procedure Rules relevant to the particular inquiry. These are The Town and Country Planning (Inquiries Procedure) (England) Rules 2000 and The Town and Country Planning Appeals (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000.

Rule 6(6) 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.”

If the Town Council wishes to take a very active part in an inquiry we should contact the Planning Inspectorate requesting “Rule 6” status, stating who we are representing, why you want “Rule 6 status” and briefly explain what we can bring to the inquiry that another party may not.

With “Rule 6 status” the Town Council will be considered to be a main party. We will be sent copies of the documents sent to the Planning Inspector by the other main parties (eg. the applicant/appellant, the local planning authority and any other Rule 6 parties). We will be entitled to appear at the inquiry and to cross-examine other parties.

The Planning Inspectorate will instruct Rule 6 parties to send them a statement of case, usually within 4 weeks of the date of the letter which grants “Rule 6 status being confirmed by the Planning Inspectorate.

The Town Council must send one copy of our 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.

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.

Usually 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 (uncommon ground).

If we propose to give, or to call another person to give, evidence at the inquiry by reading a proof of evidence we must send copies of it and anything that is to be read out.

Any proof of evidence should:

- refer to the information that our witnesses wish the Inspector to take into account;
- cover only areas where we 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 our 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.

Proofs need to be concise and where it exceeds 1500 words you have to provide a summary and it is the summary that is read out.

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.

Core documents (like the local plan) are usually sorted out by either the appellant or the Planning Authority.

For major applications there are likely to be Case Management Conferences or Pre-Inquiry meetings which it would be expected that Rule 6 Parties take part in.

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).

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.

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.

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.

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

TOWN COUNCIL PROCEDURE

Should the Town Council's Planning Committee feel strongly about an application that we have recommended refusal for and it is refused and subsequently the applicant appeals, then we should be expected to seek Rule 6 Status and, depending on the level of the appeal, be expected to submit at a minimum a Statement of Case to the Inspector. Whether we extend that to attendance at Inquiry and presentation of witness statements and cross examination of other witnesses would need to be a matter for us to consider on a case by case basis.

The process will therefore be as follows:

1. The Town Council receives a notice of appeal.
2. That notice is considered at the next available Planning Committee meeting (providing it works within any specified dates).
3. Where appropriate (ie. in a particularly significant development) the matter will then be taken to Full Council. The Planning Committee will make the decision about whether or not this step is required.
4. The Committee agrees to Rule 6 status request and the Planning Inspector is notified.
5. The Committee and officers work on the statement of case and any other documents depending on the level of the appeal.
6. The outcome of the appeal is presented to the Planning Committee for noting.

Approved by Planning Committee	18 July 2023
Adopted by Council	
Review Date	