

Procedures for Public Inquires and Hearings into Regionally Significant and Called-in Planning Applications



Planning Appeals
Commission

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Introduction

[1] This publication is intended to inform and assist all those who take part, in whatever capacity, in public local inquiries and hearings conducted by the Planning Appeals Commission in relation to regionally significant and called-in planning applications. The procedures set out here have been drawn up under powers conferred on the Commission by Section 204(5) of the Planning Act (Northern Ireland) 2011. They are based on the well established principles of openness, fairness and impartiality. All participants in inquiries and hearings are expected to follow these procedures and to act in a co-operative and reasonable manner.

[2] You are entitled to represent yourself at an inquiry or hearing but if you need help to present your case, you may wish to appoint a professional adviser. The Royal Town Planning Institute has an online directory of planning consultants, which may be accessed at www.rtpi.co.uk. Advice may also be sought from Community Places, a not-for-profit voluntary organisation which provides free advice on planning issues to community groups and individuals. It can be contacted at 2 Downshire Place, Belfast BT2 7JQ or by telephone on 028 9023 9444. Its website is www.communityplaces.info.

The Planning Appeals Commission

[3] The Planning Appeals Commission is a statutory tribunal, independent of any government department or agency. Members of the Commission are public appointees and are called Commissioners. They have varied backgrounds and qualifications including town planning, architecture, environmental science and law. Administrative staff are responsible for the Commissions' day-to-day work. While they are available to deal with queries from the public about procedures, they are unable to comment on the merits of individual applications.

[4] All information presented to the Commission is processed in accordance with the Data Protection Act 1998 (see Appendix 1).

The Legislation

[5] Section 26 of the 2011 Planning Act requires applications for planning permission for certain major developments to be made to the Department for Infrastructure rather than to the local council. The major developments concerned are those which have been identified by the Department as being of significance to the whole or a substantial part of Northern Ireland, having significant effects outside Northern Ireland or involving a substantial departure from the local development plan.

[6] Section 29 of the 2011 Planning Act enables the Department to give a direction requiring a planning application made to a council to be referred to it instead of being dealt with by the council. Such applications are known as called-in applications.

[7] The Department may cause a public inquiry to be held by the Commission to consider representations made in respect of a regionally significant or called-in planning application. Where such an inquiry is not held, the Department must serve on the applicant and the council a notice indicating the decision it proposes to make. This notice is known as a notice of opinion. If within a period of not less than 28 days from the notice being served, the applicant or the council so requests, the Department must afford to each of them an opportunity of a hearing before the Commission or a person appointed for the purpose.

[8] The 2011 Planning Act reserves to the Department the final decision on regionally significant and called-in planning applications following any public inquiry or hearing.

Organisation of the Inquiry or Hearing

[9] When a regionally significant or called-in application is referred to it, the Commission is responsible for organising the inquiry or hearing. Appendix 2 sets out the main events. The Chief Commissioner will appoint a Commissioner (or Commissioners) to conduct the proceedings.

[10] To ensure that the proceedings run efficiently, the Commission may organise a pre-inquiry or pre-hearing meeting. The purposes of such meetings are to outline the arrangements and deal with procedural queries.

Notification of Arrangements

[11] The Department will forward to the Commission copies of all representations in favour of or against the proposal from individuals, companies or groups. Such persons, whether objectors or supporters, are often referred to as “interested third parties”. There will be no need for anyone who made representations to correspond separately with the Commission in order to register an interest in the inquiry or hearing.

[12] The Commission will write to the applicant, the Department and the third parties advising them of:-

- the time and place of the inquiry or hearing and any related meeting;
- the arrangements for submitting written statements of case; and
- the way in which the proceedings will be conducted.

[13] A questionnaire will be enclosed with the letter to the third parties, asking them to indicate how they wish their comments to be considered. There are three options:-

- A. Rely on your original representation and take no further part in the proceedings.
- B. Submit a written statement of case and take no further part in the proceedings.
- C. Submit a written statement of case and participate in the inquiry or hearing.

If on your questionnaire you nominate an agent to represent you, the Commission will correspond with your agent and not with you.

[14] Please note that the Commission will consider **all** representations unless they are withdrawn. Even if you do not attend the inquiry or hearing, the Commission will still take your comments into consideration.

People with a Common Cause

[15] The substance of the representations is of more significance than the number of people making representations and it is advantageous for people sharing a common cause to pool resources. The Commission encourages parties to join together to prepare written evidence. Spokespersons can be chosen to discuss particular issues on behalf of the group. The spokesperson can be assisted by the group at the inquiry or hearing. Similarly, agents representing people pursuing the same cause will be expected to co-operate with one another.

Statements of Case

[16] Your statement of case should be a fully comprehensive document structured on a topic basis, consisting of **all** the points you wish to rely on, **all** the evidence to support your case (including the evidence of all your witnesses), a list of documents referred to, and any relevant maps (A3 or A4 size only) and photographs. The statement of case should not exceed the word limit specified in the Commission's letter. Appendices may be used for supporting information but argument must be confined to the main body of the statement. **The statement of case must be submitted on time.**

[17] Parties should seek to agree facts and methodologies at an early stage. The extent of any agreement should be identified in the statements of case. The Department will be expected to give clear views on each issue and to include a set of draft conditions to be attached in the event of the application being approved. Statements of case may be submitted electronically. If any material is submitted in paper format, sufficient copies must be provided for all parties; the Commission will advise how many copies to submit.

[18] All statements of case will be exchanged by the Commission on a reciprocal basis. Therefore, if you do not submit a statement of case by the date specified by the Commission, you will not receive copies of other parties' statements of case. Parties who submit statements of case will be given an opportunity to comment on the other parties' cases within a set time. Such rebuttal evidence should concentrate on the matters still in dispute and avoid introducing new issues. Each party's rebuttal evidence will be copied for information to the opposing parties.

[19] **The time limits for submission of statements of case and rebuttal evidence will be applied strictly and will be extended only in the most compelling circumstances.** Ten working days before the inquiry or hearing, all statements of case and rebuttal evidence will be made available for inspection at the Commission's office. Where the application is subject to environmental impact assessment, the period for public viewing will be four weeks.

[20] Parties seeking to introduce new issues at the inquiry or hearing will have to persuade the Commissioner that they are relevant issues and that they could not have been dealt with in the statement of case. The introduction of such late evidence is to be avoided as it could result in delays.

What will Happen at the Inquiry or Hearing?

[21] The Commissioner will conduct the inquiry or hearing openly, fairly and impartially. It will run smoothly if everyone co-operates. The Commissioner will direct when people should speak or ask questions and any problems should be raised with him or her **in public** at an appropriate time during the proceedings. The Commissioner will ensure that all parties are given an opportunity to express their views.

[22] The inquiry or hearing will be conducted on a topic basis. The Commissioner will set out the order of business in an agenda and will lead a round table discussion on each topic. Before moving on to the next topic, the Commissioner may give all parties an opportunity for formal questioning or submissions to address any matters which were not covered in the round table discussion. However, as a general rule, questioning between parties who are pursuing the same issue will not be permitted unless there are significant differences in views between them.

Observing the Proceedings

[23] If you are not participating in the proceedings but just wish to observe you may do so. The inquiry or hearing is a public forum. All statements are made in public and all documents presented become public. The press may attend but there will be no live coverage on radio or television. The proceedings may be recorded only with the prior permission of the Commissioner and copies of the recording must be provided for the Commission and all who request them.

[24] Anyone who wishes to attend the inquiry or hearing to observe or take part and has special needs, such as a requirement for disabled access, should contact the Commission at an early stage so that appropriate arrangements can be made.

Close of the Inquiry or Hearing

[25] When all the evidence has been heard, the Commissioner will close the proceedings and indicate when he or she expects to deliver a report to the Department. The Commissioner will examine all the evidence presented, visit the application site and prepare the report. The report will not summarise the evidence but will set out a reasoned consideration of the main issues and recommend how the application should be determined.

[26] The Department is required to consider the Commission's report before it makes the final decision on the application but is not obliged to accept the recommendation. The timing of publication of the report will be a matter for the Department.

Complaints

[27] Details of the Commission's complaints system are provided on its website www.pacni.gov.uk and on a leaflet which is available on request.

Appendix 1

DATA PROTECTION AND FREEDOM OF INFORMATION

The Data Protection Act regulates the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. The Commission is fully committed to complying with the Act.

The Commission receives a range of personal information from a number of sources, which falls within the remit of the Data Protection Act. This includes representations about development proposals. The information received by the Commission varies but may include:-

- details of an individual's name, address and occupation;
- information about the health, personal or family circumstances of an individual; and
- an individual's opinions about a development proposal.

This information is held and considered by the Commission in accordance with the principles set out in the Data Protection Act. It is only used by the Commission for the purpose for which it was provided. It is only retained as long as reasonably necessary, usually no longer than three years from the completion of the Commission's work. However, all Commission reports and decisions must have clear reasons for the conclusions reached and it may be necessary to refer to an individual's personal or family circumstances in a report or decision, which may be retained indefinitely.

The Commission is a tribunal and must operate openly, fairly and impartially. All documents on casework files can be viewed by any member of the public, under the Commission's supervision.

An individual should therefore only provide personal or sensitive information that he/she accepts will be available to the public. No-one should present personal information about other people without their consent. Information provided will not be vetted or redacted by the Commission because of its role to carry out its functions as an independent decision maker in an open, fair and transparent manner.

Under the Data Protection Act, an individual can request access to his/her personal information held by the Commission. Such requests should be in writing and sent to the address below. There is a charge of £10 for requests and the person making the request will also need to send proof of identity.

A request made under the Data Protection Act should include:-

- the specific information which is being sought;
- who you are and how you can be contacted;
- how you would like to receive the information.

Please also identify any accessibility requirements you may have and if you need to receive the information in a particular format, for example, large print, Braille etc.

You are entitled to a response to your request within 40 calendar days. It is in the Commission's and your interests to hold accurate data. If the data is inaccurate, you can ask us to erase, amend or add to the information though you should note that personal or family circumstances referred to in a Commission report or decision cannot be changed. There will be no charge for this.

Any complaints about how the Commission dealt with requests about information will be processed in accordance with the Commission's Complaints System which is published under Publications on the Commission's website. These complaints will not be reviewed by the Complaints Audit Panel, see below.

If you remain dissatisfied with the Commission's response to your information request you may contact the Information Commissioner at

51 Adelaide Street
BELFAST BT2 8FE
Telephone number: (028) 9026-9380
Fax number: (028) 9026-9388
email address: ni@ico.gsi.gov.uk; or
website address: www.ico.gov.uk.

Requests for access to personal information should be sent to

The Chief Administrative Officer
4th Floor,
92 Ann Street
BELFAST BT1 3HH
Telephone number: (028) 9024-4710
Fax number: (028) 9031-1338
e-mail address: info@pacni.gov.uk
website address: www.pacni.gov.uk

The Commission reviews its procedures regularly to ensure continued compliance with the Data Protection Act.

Freedom of Information Act - The Commission is not identified as a Public Authority under the Act. The Environmental Information Regulations 2004 apply to any body that has public responsibilities relating to the environment, exercises functions of a public nature relating to the environment or provides public services relating to the environment. This could include the Commission but the Regulations do not apply to the extent that the Commission is acting in a judicial capacity. Nonetheless, as a tribunal which operates openly fairly and impartially, the Commission seeks to comply with the spirit of the Act and Regulations.

Appendix 2

THE MAIN EVENTS

The Department requests the Commission to conduct the inquiry or hearing and forwards copies of the representations it has received.

The Commission notifies all interested parties of the arrangements for the inquiry and invites third parties to complete questionnaires indicating how they wish to participate.

The Commission may hold a pre-inquiry or pre-hearing meeting.

Parties prepare and submit statements of case, which are exchanged by the Commission.

Parties prepare and submit rebuttal evidence, which is copied to the opposing parties for information.

The Commissioner conducts the inquiry or hearing.

The Commissioner prepares a report and recommendation.

The Commission sends the report to the Department.

The Department considers the report and recommendation.

The Department makes its final decision on the application and publishes the Commission's report.

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