

An appealing prospect

Sharon Smith explains the practicalities of the new process for householders to appeal planning decisions

The Householder Appeals Service (HAS) was introduced in 2009. Its purpose is to provide an expedited appeal process for written representation householder planning appeals, in an easier and more proportionate manner. This article provides a brief outline of how the process works.

The HAS only relates to planning appeals for existing residential householder planning applications where permission has been refused, or where an application to vary a condition has been refused. The HAS does not apply to applications for development to a flat or flats, additional or new dwellings.

Appeals submitted for this procedure must be lodged within 12 weeks of the date shown on the council's decision notice. The Planning Inspectorate aims to determine this type of appeal within eight weeks of the start date of the appeal. If a hearing or inquiry procedure is considered necessary, the appeal will not be considered under the expedited procedure.

THE PROCESS

Once the refusal notice (the decision) is received, the appellant (or their agent) will need to complete the appeal forms. These can be completed and submitted either online via the Planning Portal (the government website) or as a hard copy. Forms are available from the Planning Inspectorate.

The appellant must be the applicant named on the planning application forms, unless written permission is given by the original applicant.

The prescribed form must be completed – in this case, the householder appeal form – and submitted with copies of the original planning application forms, the council's decision notice and the appellant's grounds of appeal. The appellant must also provide details regarding health and safety issues on the appeal site, including those relating to ladders and wheelchair access.

The grounds of the appeal for this procedure, unlike other appeals, must be submitted with the appeal forms. This is the only opportunity the appellant has to submit his or her case. This sets out and addresses, from the appellant's perspective, the policies and reasons referred to in the decision notice.

Simply disagreeing with policy will not help the appellant's case; the appellant needs to justify why he or she considers an alternative interpretation of the policy exists. So, for example, if the council has said that the proposal has a detrimental impact on a neighbour's residential amenity, it is not sufficient simply to say that the council is wrong in this, or that the neighbour likes the proposal and does not object to it; the impact of the proposal on neighbours, including future neighbours, must be considered, regardless of the views of the present neighbours.

If an application for costs is made, this must be included within the first sentence of the appellant's grounds of appeal. The council, if making an application, must do so within 14 days of the start of the appeal. The expedited HAS generates a quick decision, so costs applications are likely to be determined after the formal appeal decision.

The Planning Inspectorate then checks the suitability of the appeal for the HAS procedure, and its validity. If it is suitable, and all the relevant documentation has been submitted, the appeal is allocated a unique reference number. This reference number will be confirmed to the council and to the appellant. This notification comprises the start date of the appeal process.

The council must submit its completed questionnaire and supporting documents within five days of the notification of the appeal. With this procedure, unlike other planning appeals, it cannot make any submission within the appeal process; its case will be its reason(s) for the refusal of planning permission.

If the decision is a member overturn, where a committee decision is against the officer recommendation, the committee minutes must clearly articulate the reason(s) for refusal. These reasons will come forward in the resultant decision notice, the subject of the appeal.

Third parties cannot make any submission with this procedure. The council, at the time of considering the application, will notify interested parties, through the publicity for the application, that any representations made will be considered if the application is the subject of a householder appeal. Any representations that are received are forwarded by the council, with its submission, to the Planning Inspectorate.

If it is possible to view the appeal site adequately from publicly accessible land, the inspector will carry out an unaccompanied site inspection. Where access is required, the Planning Inspectorate will provide a time period when the site inspection will occur. It will be necessary for the appellant and / or his or her agent to be present, solely to facilitate the access, and not for any discussion. Unlike other appeal procedures, the council does not attend.

If access is required to neighbouring properties, this is identified by the council at the start of the process. Arrangements are made for a site visit to the relevant properties where, again, no discussion can take place. Once a decision is made, both main parties are sent a copy of it; it is also available via the Planning Inspectorate / Planning Portal website. ■

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