

Good Practice Memorandum 1: Advance Notification of Legal Representation and Legal Submissions at Hearings

This note has no status other than having been agreed as representing good practice as between:

- (1) The Planning Inspectorate;
- (2) The Planning and Environmental Bar Association; and
- (3) The Planning and Environmental Committee of the Law Society

Ordinarily hearings are conducted as an informal inquisitorial event, led by a Planning Inspector, as a mode of determining a planning appeal under s78 / s174. The testing of evidence by cross examination is permitted only at the inspector's discretion, in consultation with the main parties. Legal submissions are infrequent.

Nonetheless, parties are entitled to attend with legal representation should they wish to do so. Such representatives are to be viewed as part of that party's team and may participate during the hearing when invited to do so by the Planning Inspector.

The following matters will ensure the smooth conduct of the event and are agreed to comprise best practice by the above bodies:

1. Advance Notice of Legal Representation

- If a party intends to be represented legally at a hearing they should provide advanced notice of that intention to the PINS case officer, as well as to other principal parties to the appeal.
- When counsel, and particularly leading counsel, are instructed to attend then at least two weeks' notice should be provided, so as to enable other parties to decide if they too wish to be represented by counsel at the event.
- When a legal representative, other than counsel, will attend at least a week's notice should be provided.
- Hearings (and Inquiries) are public events. Space can, however, sometimes be limited. If an organisation expects to attend with a number of representatives simply to observe (e.g. for training purposes) then advance notice to the LPA (copying in the PINS case officer) is expected, to ensure that the venue has sufficient capacity and the Inspector is aware of the likely interest.

2. Advance Notice of Legal Submissions

- Legal submissions, where appropriate in the context of a hearing, should be provided along with the hearing statements of the parties. However, where matters arise which could not have been reasonably anticipated, then further legal submissions may be delivered at a hearing.
- However, advanced notice of such submissions should be provided to the other principal parties, and to the PINS case officer to the appeal. This should

be a short summary of the points to be made as well as copies of any caselaw or legislation that is intended to be relied upon. This should be made explicit in any covering message to ensure that it is not returned as late evidence. Formal acceptance of the information may need to be secured from the Inspector at the hearing.

- Such advanced notice should be given at least two weeks in advance of any event, with any response by the other principal party being provided at least one week in advance of such an event.
- The Inspector retains the discretion not to accept or hear such submissions on the grounds of relevance.

22 September 2023