

Research Briefing

4 April 2024

Number SN 6790

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Planning appeals (England)

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1 Can planning decisions be appealed?

1.1 What can be appealed?

Most planning applications are made to, and determined by, the local planning authority (LPA) in the first instance. However, under [section 78 of the Town and Country Planning Act 1990](#), applicants can appeal if:

- An LPA has refused planning permission for reasons that go against the local plan or planning policy.
- An LPA has granted planning permission but subject to unreasonable, unnecessary, irrelevant, or unenforceable conditions.
- An LPA did not determine a planning application within statutory time limits (13 weeks for major developments, and eight weeks for most other developments).¹

It is also possible to appeal enforcement notices that an LPA issues against unauthorised development.² For further information, see the [Library briefing on planning enforcement in England](#) (July 2019).

1.2 Who can make an appeal?

There is no third-party right of appeal in planning law. This means neighbours or other third parties who object to a planning application cannot appeal that decision.³ Only applicants (and their representatives) can appeal a planning decision.

¹ [Section 78 of the Town and Country Planning Act 1990](#); GOV.UK, [Appeal a planning decision](#), undated [accessed 2 April 2024]; [Article 34 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

² [Section 174 of the Town and Country Planning Act 1990](#); Department for Levelling Up, Housing and Communities (DLUHC) and Ministry for Housing, Communities and Local Government (MHCLG), [Guidance: Appeals](#), March 2014, para 18

³ Planning Portal, [Can planning permission be overturned?](#), undated [accessed 2 April 2024]

They must usually make an appeal within six months of the decision, or if no decision has been made, within six months from when a decision should have been made.⁴

Different rules apply for applications for [householder planning consent](#) (for small projects like extensions, conservatories or loft conversions). For these, an appeal must be made within 12 weeks.⁵

2 Decision-making on appeals

2.1 Who decides appeals?

Appeals are formally made to the Secretary of State for Levelling Up, Housing and Communities. In practice, most appeals are handled by the Planning Inspectorate, an executive agency of the Department for Levelling Up, Housing and Communities.⁶ Information on ongoing and past appeals can be found on the [Planning Inspectorate's Appeals Casework Portal](#).

The Secretary of State has the power to determine an appeal instead of allowing a planning inspector to make the decision (under [section 79 of the Town and Country Planning Act 1990](#)).⁷ This is called a 'recovered appeal'. The Secretary of State can choose to recover an appeal at any stage up until the planning inspector has issued their decision on the appeal. For further information, see the [Library briefing on calling-in a planning application](#) (April 2024).

2.2 How are appeals decided?

In making the decision on an appeal, a planning inspector will consider any relevant legislation and policies, including local and national planning policies as well as "any other relevant matters".

The inspector will also consider representations on the case made by the appellant and the LPA (the 'main parties'). They will also consider any comments interested parties made on the planning application during the

⁴ [Article 37 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#); DLUHC and MHCLG, [Guidance: Appeals](#), March 2014, para 13

⁵ GOV.UK, [Appeal a householder planning decision](#), undated [accessed 2 April 2024]

⁶ [Section 78 of the Town and Country Planning Act 1990](#); [Schedule 6 of the Town and Country Planning Act 1990](#); Planning Inspectorate, [Procedural Guide: Planning appeals](#), January 2024, paras 7.1-7.2

⁷ [Section 79 of the Town and Country Planning Act 1990](#)

public consultation stage and any further representations made at the appeal stage.⁸

There are no statutory time limits within which a planning inspector has to make their decision on an appeal. For the year ending in December 2023, the median timescale from when an appeal was accepted as ‘valid’ to a decision being made was 32 weeks.⁹ The Planning Inspectorate publishes the [latest average timescales for appeals, broken down by procedural arrangements](#) (updated monthly).

Procedural arrangements for appeals

Most appeals are dealt with by means of written representations. Sometimes, a planning inspector will opt for a hearing instead of, or in addition to, written representations. For more complex cases, they may also opt for a local public inquiry. It is up to the inspector to decide which procedure they use.¹⁰

A [local public inquiry](#) involves formal hearings which give the main parties (or their legal representatives) an opportunity to present their case. The planning inspector will also likely call witnesses, including experts. The witnesses can be questioned by the main parties about the evidence they have presented.¹¹

For further information about the different procedures, see [the Planning Inspectorate’s procedural guide to planning appeals](#) (January 2024). The guide explains that, in making their decision about which procedure to use, an inspector “will consider the views of the appellant and the LPA” and [the Planning Inspectorate’s criteria for determining the procedure for appeals](#). The criteria state that a local public inquiry is appropriate, for example, if an appeal has generated “substantial local interest” or is “complex”.¹²

Of the around 9,160 appeals decided by the Planning Inspectorate between April 2022 and March 2023, 8,370 (91%) were dealt with by means of written representations. Around 550 (6%) involved hearings, and around 240 (3%) involved a local public inquiry.¹³

⁸ Planning Inspectorate, [Procedural Guide: Planning appeals](#), January 2024, paras 7.3-8

⁹ Planning Inspectorate, [Planning Inspectorate statistical release 25 January 2024](#), last updated 25 January 2024 [accessed 2 April 2024]

¹⁰ Planning Inspectorate, [Procedural Guide: Planning appeals](#), January 2024, para 6.2

¹¹ Planning Portal, [Local inquiry](#), undated [accessed 2 April 2024]

¹² Planning Inspectorate, [Criteria for determining the procedure for planning enforcement advertisement and discontinuance notice appeals](#), April 2022

¹³ Planning Inspectorate, [Planning Inspectorate Casework Database](#), 29 January 2024 [accessed 27 March 2024]

2.3 Can interested parties get involved in appeals?

Any comments interested parties made on the planning application during the public consultation stage are passed on to the planning inspector by the LPA. Interested people can also usually make further representations at the appeal stage (for example, via the [Planning Inspectorate's Appeals Casework Portal](#)).¹⁴

If a planning inspector decides to hold a hearing or opts for a public inquiry, interested parties can attend. The inspector will decide whether interested parties can speak at the hearing.¹⁵

For a public inquiry, interested parties who believe they have a “substantive case” can also apply to the Planning Inspectorate for “rule 6 status”.¹⁶ This means that interested parties will be given the same status as other main parties (the appellant and the LPA). This means that they can speak at the inquiry, submit evidence to the planning inspector and cross-examine other parties. For further information, see [guide to Rule 6 for interested parties by the Planning Inspectorate](#) (August 2023).

3 Planning appeal statistics

3.1 How many planning decisions are appealed?

The chart below shows the number of appeals that the Planning Inspectorate received, decided and allowed between 2014/15 and 2022/23.¹⁷ In 2022/23, the Planning Inspectorate received around 10,630 applications and decided around 9,160 appeals.¹⁸

Of the around 9,160 appeals decided by the Planning Inspectorate between April 2022 and March 2023, the majority (86% or around 7,880) were made because the LPA refused planning permission. Around 750 (8%) were made

¹⁴ Planning Inspectorate, [Procedural Guide: Planning appeals](#), January 2024, para 9.4.5

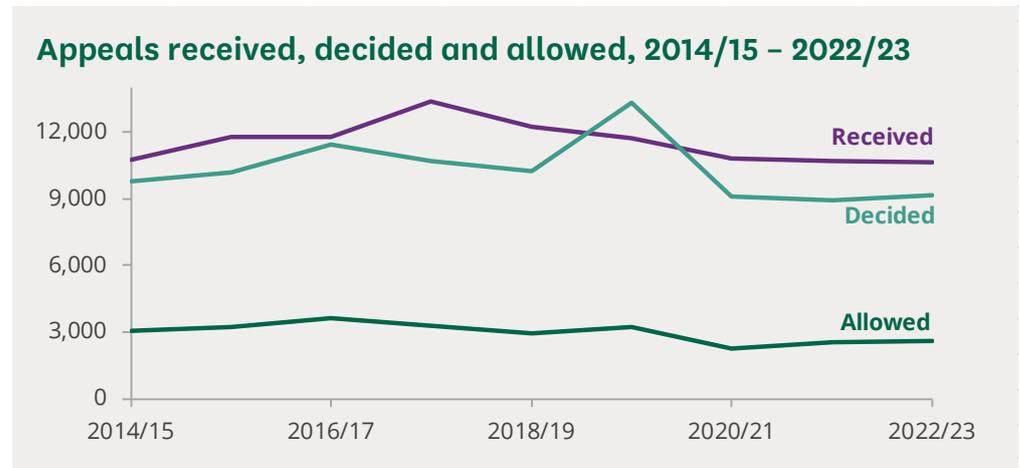
¹⁵ Planning Inspectorate, [Guide to taking part in planning and listed building consent appeals proceeding by a hearing](#), January 2024, section 8

¹⁶ [Rule 6\(6\) of the Town and Country Planning \(Inquiries Procedure\) \(England\) Rules 2000](#); Planning Inspectorate, [Guide to taking part in planning and listed building consent appeals proceeding by an inquiry](#), January 2024, section 8

¹⁷ The appeals the Planning Inspectorate ‘received’ include those that were later recovered by the Secretary of State. The appeals the Planning Inspectorate ‘decided’ and ‘allowed’ only include appeals that were decided by the Planning Inspectorate (rather than the Secretary of State).

¹⁸ Planning Inspectorate, [Planning Inspectorate Quarterly and Annual Volume Statistics](#): Table 2.1a, last updated 19 October 2023 [accessed 27 March 2024]; Planning Inspectorate, [Planning Inspectorate Casework Database](#), 29 January 2024 [accessed 27 March 2024]

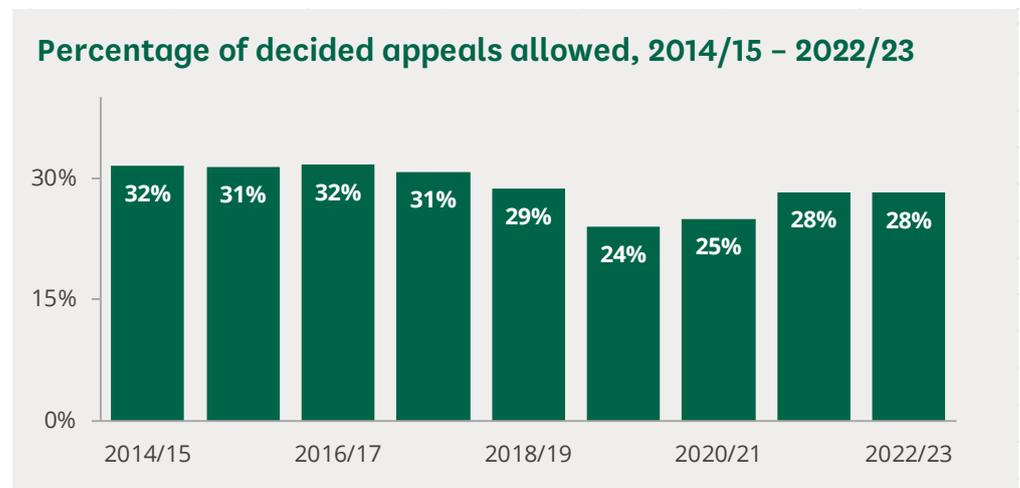
because an LPA failed to determine a planning application within statutory time limits, and around 450 (5%) were made against the conditions attached to planning permission.¹⁹



Source: Planning Inspectorate, [Planning Inspectorate Quarterly and Annual Volume Statistics](#): Table 2.1a, last updated 19 October 2023 [accessed 27 March 2024]; Planning Inspectorate, [Planning Inspectorate Casework Database](#), 29 January 2024 [accessed 27 March 2024]

3.2

What proportion of appeals are allowed?



Source: Planning Inspectorate, [Planning Inspectorate Casework Database](#), 29 January 2024 [accessed 27 March 2024]

Of the around 9,160 appeals the Planning Inspectorate decided in 2022/23, it allowed around 2,580 (28%) and dismissed around 6,320 (69%). In previous

¹⁹ Planning Inspectorate, [Planning Inspectorate Casework Database](#), 29 January 2024 [accessed 27 March 2024]

years, the Planning Inspectorate allowed a similar proportion of appeals it decided: between a quarter and a third of appeals.²⁰

Of the around 7,880 appeals that applicants submitted in 2022/23 because the LPA refused planning permission, the Planning Inspectorate also refused planning permission in around 5,600 cases (71%). The Planning Inspectorate granted planning permission in around 2,080 cases (26%).

4 Challenging planning decisions in court

The planning decisions of LPAs can be challenged in court under ‘judicial review’ under [part 54 of the Civil Procedure Rules](#). The decisions of planning inspectors and the Secretary of State can also be challenged under [section 284 of the Planning Act 1990](#). This is called ‘statutory review’.²¹

There is a strict six-week time limit for applying for judicial review.²²

Judicial review is not an appeal against a planning decision itself. The focus is on whether the decision was made in a proper and lawful manner.

4.1 What are the grounds for judicial review?

In general, there are three grounds for judicial review: irrationality; illegality; and procedural impropriety.²³ In the context of planning decisions, grounds for judicial review include:

- The decision-maker failed to consider relevant material considerations, or they took irrelevant matters into account in reaching their decision.
- An LPA, a planning inspector or the Secretary of State failed to correctly interpret and/or apply relevant planning policies (for example, policies in the local plan which are relevant to the development).
- The decision-maker failed to follow procedural rules that are set out in law, for example, they failed hold a public consultation or they did not give reasons for a planning decision.²⁴

²⁰ Planning Inspectorate, [Planning Inspectorate Casework Database](#), 29 January 2024 [accessed 27 March 2024]; Planning Inspectorate, [Planning Inspectorate Quarterly and Annual Volume Statistics: Table 2.1a](#), last updated 19 October 2023 [accessed 27 March 2024]

²¹ [Part 54 of the Civil Procedure Rules; Section 284 of the Planning Act 1990](#)

²² Courts and Tribunals Judiciary, [Administrative Court Judicial Review Guide 2023](#), October 2023, para 6.4.3

²³ Pinsent Masons, [Judicial review](#), November 2022

²⁴ Ashton Legal, [A Quick Guide to Judicial Review Planning Claims](#), April 2021

For further information about the judicial review process and grounds for claims, see a [guide by the Public Law Project](#) (February 2019) and a [guide to judicial review by the Administrative Court](#) (August 2023).

4.2 Who can bring a claim for judicial review?

To bring a claim for judicial review, a claimant must have “sufficient interest” (that is, a decision must directly affect them). If their interest is more general, the court has discretion about whether to hear the claim.²⁵

It is up to the court to decide to allow a claim for judicial review. It will assess whether the grounds for judicial review are met and whether the claimant has a right to bring the claim.

Any application and claim for judicial review is likely to be expensive and not recommended without having sought legal advice. Constituents seeking legal advice may find the Library briefing, [Legal help: where to go and how to pay](#) (February 2024), helpful.

4.3 What happens if the court quashes a decision?

If the court allows a claim for judicial review and finds that procedural mistakes were made, it can quash a planning decision.²⁶

The decision-maker (the LPA, the planning inspector or the Secretary of State) will then retake their decision, correcting any mistakes identified by the court. In remaking their decision, they may reach the same decision again, for different or expanded reasons, or they may make a different decision.

²⁵ Public Law Project, [An introduction to Judicial Review](#), February 2019; Courts and Tribunals Judiciary, [Administrative Court Judicial Review Guide 2023](#), October 2023, para 6.3.2

²⁶ Public Law Project, [An introduction to Judicial Review](#), February 2019; Courts and Tribunals Judiciary, [Administrative Court Judicial Review Guide 2023](#), October 2023, para 12.3

5 Complaints to the Ombudsman

5.1 Local Government Ombudsman

Someone who has concerns about the way in which an LPA made a planning decision can [complain to the Local Government Ombudsman](#). They must first go through the LPA's own complaints procedures.²⁷

The Ombudsman can only rule on whether correct processes were used, not overturn a planning decision.²⁸ The Ombudsman can issue recommendations to an LPA on how to improve its processes.

5.2 Parliamentary Ombudsman

Someone who believes that the Planning Inspector did something wrong in the way they decided a planning appeal can ask their MP to [bring a complaint to the Parliamentary Ombudsman](#). Complaints about public organisations and government departments must be referred to the Ombudsman by an MP.²⁹

The Parliamentary Ombudsman cannot overturn a planning appeal but can make recommendations on how the Planning Inspectorate can improve its services and procedures.³⁰

²⁷ Local Government and Social Care Ombudsman, [How to Complain](#), undated [accessed 2 April 2024]

²⁸ Local Government and Social Care Ombudsman, [Your neighbour's planning application](#), June 2023

²⁹ Parliamentary and Health Service Ombudsman, [What to do before you come to us](#), undated [accessed 2 April 2024]

³⁰ Parliamentary and Health Service Ombudsman, [What we can and can't help with](#), undated [accessed 2 April 2024]

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