



The Planning
Inspectorate

Making your appeal

How to complete your listed building or conservation area enforcement appeal form



INVESTOR IN PEOPLE

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Note: this guidance replaces the “Making your enforcement appeal” booklet.

If you need this guidance in large print, in audio format or in Braille, please contact our helpline on 0117 372 6372.

This advice is important to you. Please read it immediately. You must act quickly in deciding whether to appeal.

Introduction

We must receive your listed building/conservation area enforcement appeal **before** the date on which the notice takes effect. This date should be shown on your enforcement notice and should be at least 28 days from when the enforcement notice was served on you. You should not wait until the last few days. **If your appeal is received 'out of time' we will not accept it.**

If your appeal arrives 'out of time', we will examine the postmark on the envelope to see whether, according to the postage paid, it should normally have been received before the date when the enforcement notice took effect. If the postmark is unclear and you cannot supply proof that you posted your appeal in time to be received before that date, we will not be able to accept your appeal.

Before you submit your appeal, you should enter into discussions with the local planning authority (LPA). The appeals process should be considered a last resort, for use only where all attempts to reach a mutually acceptable outcome have failed. We encourage you to continue these discussions, even during the appeal itself. This will help to narrow the areas in dispute and save time and money at the appeal stage.

You can submit your appeal on-line through the Planning Portal using the Planning Casework Service. This is an on-line service that gives people in England and Wales wider and easier access to the planning system. It allows you to track the progress of your case.

For more information about the Planning Casework Service, visit www.planningportal.gov.uk/pcs.

You can fax your appeal form to us. You can also deliver your appeal form by hand. You should ask us for a receipt if you do so. Our fax number and address details are given in Section J of the appeal form.

If you do not have an appeal form and cannot get one quickly, you may appeal by sending us a letter saying that you are appealing against the notice. We must receive the letter making your enforcement appeal **before** the date on which the notice takes effect. You should submit your appeal form as soon as possible after sending in your letter.

If you receive more than one enforcement notice you will need to submit one appeal form for each enforcement notice you want to appeal against.

Handwritten appeal forms and other documents

Please complete the appeal form in **CAPITAL LETTERS** using **black ink**.

Typed documents

Documents in a sans serif font are easier to read. Please use a font such as Arial or Verdana in a size of 11 point or larger.

Please

- use **A4** paper wherever possible;
- number the pages of the documents;
- make sure **photocopied** documents are clear and legible;
- put photographs (colour if possible), maps, plans, etc, in a **separate appendix** and cross-reference them within the main body of the document;
- bind documents so that they can be undone quickly without damaging the document. Do not use wire or plastic spiral binders;
- do not use cover sheets, sleeves or other bindings that do not add value or information
- do not send original documents unless we specifically ask for them;
- do not include self adhesive notes or small attachments which might be dislodged easily or lost;
- print documents on both sides of a page. You should use paper of good enough quality that something printed on one side of the page does not show through to the other side;
- ensure that the scale, orientation and paper size of any maps and plans are shown clearly. This is especially important if you submit your appeal electronically through the Planning Casework Service.
-

Why has the local planning authority served an enforcement notice on me?

Your LPA will serve an enforcement notice on you when they consider you have not complied with planning rules and regulations. Normally a listed building enforcement notice may be issued by the LPA where it appears to them that demolition or works to alter or extend a listed building without the required listed building consent have been carried out. Or, if there has been a failure to comply with any condition attached to a listed building consent.

Examples of the types of alteration or extension which would normally require listed building consent are:-

- a) an extension to a building whether or not it is within the permitted development limits of the Town and Country Planning (General Permitted Development) Order 1995 (as amended);
- b) alterations such as the removal and replacement of doors and windows; and
- c) alterations to the interior fabric of a listed building.

A conservation area enforcement notice is issued if an unlisted building in a conservation area has been demolished without the grant of conservation area consent.

Who can appeal

An appeal may be made by:

(i) a person who has a legal interest in the building when the appeal is made (irrespective of his/her standing when the notice was served); or

(ii) a relevant occupier in occupation of the building both when the notice was served and when the appeal is made.

Interest in this context has a special significance. It means either a legal or an equitable interest in the building. It includes owners, lessees, some tenants and Official Receivers. Mortgagees or other lenders also have an interest in the building (as security for the loan they have advanced to the borrower).

Section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a right of appeal for a person who has an interest in the land to which a listed building or conservation area enforcement notice relates or is a relevant occupier of the land. They may appeal to the Secretary of State whether or not they were served with the notice.

Section 39(7) defines a relevant occupier as a person who, on the date the notice was issued, occupied the building concerned by virtue of a written licence and continues to occupy the building when the appeal is made.

Paragraph 2.27 of Annex 2 to Circular 10/1997 states that anyone occupying the building with the owner's oral or written consent can be a relevant occupier.

However, trespassers may not appeal against an enforcement notice, even if they have been served with a copy of the notice.

If you "have an interest" you may appeal even if the notice has not been served on you.

Sometimes, more than one person may have a legal interest in the building to which a listed building/conservation area enforcement notice relates and their different interests may conflict with each other. For example, the owner of the building may wish the enforcement notice to be upheld, while the occupier of the land may wish to retain the works. In these circumstances, it is up to each person with a legal interest to decide how his or her interests will best be served once an enforcement notice has been issued.

If you own the building and you do not appeal against a listed building/conservation area enforcement notice but someone else does appeal against it, in law you will have the status of an 'interested person'. This does not entitle you to receive a copy of all the representations made by the appellant and other interested people (though you would be able to see such representations at the LPA's offices).

If you are an owner of the building and wish to have the status of 'interested owner' in somebody else's appeal against a listed building/ conservation area enforcement notice, you should tell us as soon as you know that the appeal has been made. This status is given at our discretion. It means that we will give you the same treatment as an appellant. You will be able to attend any hearing or local inquiry, or be present at a site inspection by our Inspector. You will also be able to see and comment on any written representations made by the appellant, the LPA, and any other interested parties, during the progress of the appeal.

Appeal costs awards

You and the LPA normally have to meet your own appeal expenses, whether we decide it by the written procedure, a hearing or an inquiry.

If you have good reason you can ask the Secretary of State or the Inspector to order the LPA to pay all or some of your costs. The LPA can also ask for you to pay some or all of their costs if they have good reason. The Secretary of State or the Inspector will only do this if the person applying can show that the other side behaved unreasonably, and put them to unnecessary or wasted expense.

We will send you our separate guide 'Costs awards in planning appeals'. It is important that you read this guide because it explains how, when and on what basis you can make an application or have an application made against you. Further information on costs including a form which can be used to apply for costs in writing is available from our website.

COMPLETING THE APPEAL FORM

In this guidance we use the same lettering and numbering as the listed building/conservation area enforcement notice appeal form.

SECTION A

Appellant details

Name

Please see "Who can appeal" above to ensure that you are entitled to appeal against the listed building/conservation area enforcement notice.

Email

If you tick the box to say that you prefer to be contacted by email where possible we will send you our letters by email and we will not send paper copies.

SECTION B

Agent details

You do not have to employ an agent to handle your listed building/ conservation area enforcement appeal. If you decide to employ an agent he or she will probably complete the appeal form for you.

If you have an agent we will send all of our letters or emails to the agent. We will not send a copy to you. You should ensure that you keep in touch with your agent about the appeal arrangements.

SECTION C

Details of the appeal

The name of the LPA, the date of issue of the enforcement notice and the date it takes effect should all be on the enforcement notice. There may also be a reference number.

SECTION D

Appeal site address

Postcode

This information is very important to us. If the appeal building does not have a postcode please provide the postcode of the nearest building that does. If the building is in a very rural and remote position, please provide information to help us identify it eg a sketch map showing the site and at least two named or numbered local roads.

Health and safety at the site

The site is likely to be inspected during the course of the appeal and we will need to know what safety equipment and protective clothing will be required. The following questions indicate the type of information we will need about the appeal site and any land or building that will need to be entered. Please supply any relevant information on a separate sheet of paper.

1. Is the site uneven or does it present any other known risks? Is special footwear or any other Personal Protection Equipment required, and will this be supplied at the site? (Please list)
2. Is there any likelihood of exposure to pets or other animals that may present a risk to personal safety?
3. Is the site remote and/or can it be seen from other occupied buildings/property/public land/roadside?
4. Does the site have a good mobile phone signal or is there easy access to a public telephone should the emergency services be required?
5. Are there any areas that require specialist equipment or training for access – any confined spaces?
6. Are there any dangerous pieces of equipment or substances stored at the location?
7. Is there any likelihood of exposure to chemicals, asbestos, radiation or are there any other risks, requiring the use of Personal Protection Equipment, which may affect personal health & safety? (Asbestos is referred to directly as it was present in buildings built before it was banned in 1977).
8. Will a ladder be required to view the appeal site?, If so please:
 - a. explain why this will be necessary;
 - b. give the height to which it will be necessary to climb the ladder;
 - c. state whether the ladder will be fixed or removable – if removable how will it be secured?
9. Will it be necessary to view the site from a height, eg roof, balcony?

10. Is the site easily accessible for someone in a wheelchair?

Q2 Interest in the building

“Interest in the building” is explained under “Who can appeal” above.

Please state your interest in the building. If your interest is not included in the options given, please use the space provided to explain your interest.

SECTION E

The building

Buildings which are of special architectural or historic interest are ‘listed’ by the Secretary of State for Culture, Media and Sport under Section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The legislation for the enforcement of listed building control is set out in Sections 38-46 of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) as amended by Section 25 and Schedule 3 to the Planning and Compensation Act 1991. The provisions relating to conservation area enforcement notices are set out in section 74(3) of the Act and The Planning (Listed Buildings and Conservation Areas) Regulations 1990 (Statutory Instrument 1990/1519).

Listed buildings are graded in order of importance as follows:

- Grade I - Buildings are of exceptional interest.
- Grade II* - Buildings are particularly important buildings of more than special interest.
- Grade II – Buildings are of special interest, warranting every effort to preserve them.

It is important to remember that any object or structure fixed to a listed building and any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948, shall also be treated as part of the building.

Q3 Please state whether a grant towards the costs of repairs and maintenance of the building has been made under Sections 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953.

Q4 The statutory definition of a conservation area is ‘an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance’. A conservation area can be of any size and range from whole town centres and villages to terraces or small groups of buildings or open spaces.

Conservation area consent (CAC) is necessary before anyone can demolish an unlisted building in a conservation area. This is the only circumstance under which a conservation area enforcement notice can be issued. All other enforcement appeals concerning unlisted buildings in conservation areas would be dealt with under Section 174 of The Town and Country Planning Act 1990.

SECTION F

Grounds and facts

If you intend to rely on a planning obligation¹ you should send a final draft version with your appeal form. However, if you have not reached this stage you should send in your latest draft. The "start letter" we will send you will tell you when you must send the final draft to us. You may wish to look at the ODPM Circular 05/2005 Planning Obligations, which gives further details and information about planning obligations.

There are eleven different grounds of appeal set out in Section 39(1) of the Act on which an appeal can be made. However, not all of them will be relevant in all cases because listed building enforcement notices can require different types of remedy to the breaches of listed building control.

Those which may be relevant to all appeals are grounds (a), (b), (c), (d), (f), and (h) though not all may be relevant to your appeal.

The remaining grounds of appeal which will be relevant will depend upon what the listed building enforcement notice requires. It can require either:

- restoration of the building to its former state; and/or
- alleviation of the effects of the unauthorised works; or
- in the case of breach of a condition imposed on a listed building consent that the building be put into the condition it would have been had that condition been complied with.

If restoration is required, then grounds (g) or (i) may be relevant, but note that they are different and generally only one will suit the circumstances of your appeal.

If alleviation is required, then ground (j) may be relevant.

If compliance with a condition attached to a listed building consent is required, then ground (k) may be relevant.

The following is information about the different grounds and advice on what to include in your grounds of appeal.

Your appeal must give facts in support of each chosen ground of appeal. You should think carefully about the facts on which you will rely.

It is your responsibility to provide evidence to support what you are saying for each ground of appeal.

¹ A planning obligation - often referred to as a 'section 106 agreement' - is either:

- a legal agreement made between the LPA and a person 'interested in the land'; or
- a legally binding undertaking signed unilaterally by a person 'interested in the land'.

Ground (a)

For a listed building - That the building is not of special or architectural or historic interest. Please note that any object or structure fixed to the building, and any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948, shall be treated as part of the building. It is, therefore, their contribution to the listed building which must be considered rather than only their own architectural or historic interest.

You will need to explain fully why you are challenging the listing of the building. Circular 01/2007, at paragraphs 6.9 to 6.16, set out the criteria which may be relevant to your consideration of an appeal under ground (a).

For a building within a conservation area – That retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated.

Ground (b) – That the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred.

If you plead ground (b) you are saying that whatever is alleged in the notice has not taken place. You should provide facts to support this. If the works have taken place then, irrespective of other circumstances, this ground cannot succeed.

If you wish to argue that listed building consent or conservation area consent is not needed, do not do that under ground (b). You should do that under ground (c)

Ground (c) – That those matters (if they occurred) do not constitute such a contravention.

You will need to show that the alleged works have not affected the character of the building as one of special architectural or historic interest or because the works concern a building which is not part of a listed building. This ground is not concerned with merits, which arise under ground (e).

Note: - Appellants and agents often confuse ground (b) with ground (c) and vice versa. Put simply, ground (b) is that they did not do it, and ground (c) is that they did, but listed building/conservation area consent is not needed.

Ground (d) - That the works to the building were urgently necessary in the interest of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary.

You will need to show all of the following: -

- the works carried out were urgently necessary in the interest of safety or health or preservation of the building; and
- it would have been impractical to carry out inoffensive repairs or provide temporary support or shelter; and
- the works were limited to the minimum measures immediately necessary.

For example, urgent works to keep a building wind and weather proof, or safe from collapse, or action to prevent vandalism or theft.

You will also need to say why prior consultation with the council was not possible.

Ground (e) – That listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted.

This ground covers any arguments on the merits of the case. You should focus on the points raised in the LPA's statement of reasons for issuing the listed building enforcement notice, which is normally part of the notice.

You should include an explanation of why you disagree with each reason for issuing the enforcement notice. It is not enough to say that you do not accept them – this will not help the Inspector to decide your appeal.

There is no deemed application for listed building consent therefore, you do not need to pay a fee.

Ground (f) – That copies of the notice were not served as required by section 38(4).

You will need show the copies of the notice were not served as required by Section 38(4) of the Act: -

- on the owner and on the occupier of the building to which it relates; and
- on any other person having an interest in the building, being an interest which, in the opinion of the authority, is materially affected by the notice.

The service of the notice shall take place: -

- not more than twenty-eight days after its date of issue; and
- not less than twenty-eight days before the date specified in it as the date which it is to take effect.

Note: - If the notice was not served as specified in section 38(4) this can be disregarded if no substantial prejudice has been caused to anyone's interests. For example if the appellant or other person is present at the inquiry/hearing or submitted written representations it is likely that he or she has been given adequate notice.

You should be aware that even if you succeed in this ground of appeal, the Inspector or the Secretary of State might disregard the matter and will give reasons for doing so. It depends whether he or she thinks the failure to serve a copy of a notice on a person has caused that person some injustice.

You should provide the details of anyone who has an interest in the land. You should indicate who received the notice and who did not.

Ground (g) – Except in relation to such a requirement as is mentioned in section 38(2) (b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out. It should be noted that its condition before the works were carried

out refers to its former authorised condition, which is its condition when listed, subject to any listed building consents subsequently granted. It does not refer to its physical condition, for example in terms of repair.

If you choose this ground you cannot generally also choose (i), (j) or (k).

You should say why you think the steps set out in the listed building notice for restoration are excessive.

Note:- Appellants often confuse grounds (g) and (i). Ground (g) is when the appellant considers that the steps set out in the listed building enforcement notice for restoring the building to its former authorised condition are more than necessary. Ground (i) is when the appellant considers that the steps set out in the listed building enforcement notice will not achieve the purpose of restoring the building it to its former authorised state.

Ground (h) – That the period specified in the notice as the period within which any steps required by the notice is to be taken falls short of what should reasonably be allowed.

You should say what you consider to be a more reasonable period and why. If you appeal solely on this ground you should consider negotiating the timescale with the LPA, as they may be willing to extend the period for compliance, removing the need for an appeal.

Ground (i) – That the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve the purpose. Please see the note to ground (g).

If you choose this ground you cannot generally also choose (g), (j) or (k).

You should say why you do not consider the restoration of the character of the building would not be achieved by the steps as set out in the listed building enforcement notice.

This ground of appeal is not available for appeals against conservation area enforcement notices alleging the demolition of an unlisted building in a conservation area.

Ground (j) - That the steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building. This ground is concerned with alleviation, not with restoration.

If you choose this ground you cannot generally also choose (g), (i) or (k).

You could appeal on this ground if you think that the works required in the notice go beyond what is necessary to alleviate the effect of the works done.

You should say why you think the steps in the listed building enforcement notice to alleviate the effect of the unauthorised works are excessive

Ground (k) – That steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.

If you choose this ground you cannot generally also choose (g), (i) or (j).

You should say why you consider the works required by the listed building enforcement notice are excessive as a means of achieving the appearance of the building that would have existed if the terms and conditions of the original listed building consent had been complied with.

You should enclose a copy of the (conditional) listed building consent and its supporting plans as well as any relevant associated documents including photographs.

SECTION G

Choice of procedure

There are 3 possible procedures: - written representations, hearings and inquiries. You should consider carefully which suits your circumstances before choosing your preferred procedure. Inspectors give equal attention to every appeal they consider regardless of the procedure. To help you decide which procedure to choose we have criteria which indicate which is likely to be the most suitable procedure.

These criteria are set out in Annexe 1².

Please refer to Annexe 1 before indicating which method is your preferred procedure. The Statutory Instruments give details of the procedures and timescales.

The written representations procedure

This is normally the simplest, quickest and most straightforward way of making an appeal. Over 50% of enforcement appeals proceed by the written procedure. This is quicker and simpler to undertake than a hearing or inquiry and you are likely to get your appeal decided sooner.

You may wish to look at The Town and Country Planning (Enforcement) (Written Representations Procedure) (England) Regulations 2002, Statutory Instrument 2002 No. 2683.

We will use your responses to questions 1a) and 1b) to help us decide how the site visit should be conducted.

² These criteria are for enforcement notice appeals. However, they are a guide for considering the appropriate procedure for your listed building/conservation area enforcement notice appeal.

The hearing procedure

This procedure is likely to be suited to cases which require detailed discussion. Although you may indicate a preference for a hearing, the Planning Inspectorate must also consider that your appeal is suitable for this procedure. It is unlikely to be suitable if the evidence needs to be tested ie. where the factual evidence about the condition of the building before the works took place are in dispute.

You may wish to look at The Town and Country Planning (Enforcement) (Hearings Procedure) (England) Rules 2002, Statutory Instrument 2002 No. 2684.

The inquiry procedure

This is the most formal of the procedures. The parties to the appeal will usually be legally represented and expert witnesses may be called to give evidence.

You may wish to look at The Town and Country Planning (Enforcement) (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2002, Statutory Instrument 2002 No. 2685.

Q3a) How long do you estimate the inquiry will last?

In answering this question you should say how long you estimate the inquiry will last including the time you think will be required to present all of your case. The estimate should include the time you consider may be necessary for questions to be put to both your and the LPA's witnesses.

We will take account of your estimate, the estimate we receive from the LPA and our own experience when we set the likely length of the inquiry. Once set we will expect the length of the inquiry to stay within the agreed timetable.

To help us to do this please indicate at Q3b) how many witnesses you intend to call to give evidence at the inquiry and the topic areas they will cover and any other information which will help us to decide on the appropriate timetable for the inquiry.

Section H

Other appeals

If you have made any other related appeals which are awaiting a decision for this site or for nearby sites please supply the reference numbers. Where practical, and depending on the relevant timescales, we may consider related cases together.

Section I

Check, sign and date

This section provides a useful summary of the things you need to have done. Please check your completed form carefully before signing and dating it.

SECTION J

Now send

Please note that we **must receive** written notification of your appeal before the date the notice comes into effect. So please make sure that you send your appeal in good time before that date.

You should ensure that you send a copy of the completed appeal form and a copy of any supporting documents you are sending to us to the LPA.

How we use your personal information

Under the Data Protection Act 1998 we have a legal duty to inform you about the personal information that we collect and how we use it.

When considering an appeal, the Inspectorate receives personal information from a number of sources including:

- the appellant – eg. name, address and contact details on the application and appeal form,
- the local planning authority – eg. in copies of the application documents and representations that they have received,
- other statutory appeal parties and interested parties - eg. their name and contact details in their representations.

Sometimes other personal information, such as details about a medical condition, may be relevant to the development. You should only provide personal information about yourself if you are happy for it to be placed in the public domain. You should only provide information about others, including family members, if you have their consent.

We will circulate copies of documents received to the appellant, the local planning authority and other statutory parties. The appeal papers will also be open for inspection at the local planning authority's office where anyone can view them. We will not normally refuse any requests to the Inspectorate to inspect the appeal documents.

In addition, where the appeal or case is one which we make available on our on-line Planning Casework Service (for further details see www.planningportal.gov.uk/pcs), copies of appeal documents may be made accessible over the internet. This may include your name and address, but we will remove telephone numbers, email addresses and signatures of individuals. The Inspector's decision, may contain some personal information, such as the name of the appellant or interested party, and will be made available on the internet or on request.

We may also use the personal information you submit on an appeal to contact you and seek views on the service that you received. In doing so, we may pass your contact information to a third party for the sole purpose of conducting a survey on our behalf. Although the survey may be published, any information

you provide will be made anonymous unless you have otherwise been notified and provided your consent.

Further information

Further information about our privacy policy is available on our website at www.planning-inspectorate.gov.uk, or on request. If you have any queries about our policy, or wish to make a request for your personal data then please contact our Data Manager through the address below:

Contacting us

The Planning Inspectorate
Customer Support Unit
Room 3/05
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Telephone: 0117 3726372
Fax: 0117 3728782
Email: enquiries@planning-inspectorate.gsi.gov.uk

Criteria for Determining the Procedure (Indicative) (Enforcement)

Written representations

If your appeal meets the following criteria, the most appropriate procedure would be written representations: -

1. the grounds of appeal and issues raised can be clearly understood from the appeal documents plus a site inspection and do not include a ground (d) appeal; and/or
2. the Inspector should not need to test the evidence by questioning or to clarify any other matters; and/or
3. a an environmental impact assessment (EIA) is either not required or the EIA is not in dispute; and/or
4. the alleged breach and the requirements of the notice are clear and there are no complex legal issues.

Hearing

If the criteria for written representations are not met because questions need to be asked, for example where any of the following apply: -

- the status of the appellant is at issue, eg Gypsy/Traveller;
- the need for the proposal is at issue eg agricultural worker's dwelling; Gypsy/Traveller site;
- the personal circumstances of the appellant are at issue, eg; people with disabilities or other special needs;

the most appropriate procedure would be a hearing if: -

1. there is no need for evidence to be tested by formal cross-examination; and
2. the grounds of appeal, the allegation and the requirement of the notice are straightforward (and do not require legal or other submissions to be made) and you should be able to present your own case (although you can choose to be represented if you wish); and
3. your case and that of the LPA and interested persons is unlikely to take more than one day to be heard.

Inquiry

If the criteria for written representations and hearings are not met because the evidence needs to be tested and/or questions need to be asked, as above, the most appropriate procedure would be a local inquiry if: -

1. the issues are complex and likely to need evidence to be given by expert witnesses; and/or
2. you are likely to need to be represented by an advocate, such as a lawyer or other professional expert because material facts and/or matters of expert opinion are in dispute and formal cross-examination of witnesses is required; and/or

3. legal submissions may need to be made or evidence needs to be heard under oath (e.g. where a witness is giving factual evidence about how long the alleged unauthorised use has been taking place); and/or
4. the alleged breach or the requirements of the notice are unusual and particularly contentious.

NOTE: Where proposals are controversial and have generated significant local interest they may not be suitable for the written representation procedure. We consider that the LPA is in the best position to indicate that a hearing or inquiry may be required in such circumstances.