

Report of: David Garratt, Development Control Manager
Title: The New 'Fast Track' Householder Planning Appeals
Service

1.0 Purpose of Report

1.1 To consider the implications for the new 'Fast track' householder planning appeals service.

2.0 Decision Required

2.1 To note the report.

3.0 Introduction

3.1 A number of changes to the planning appeals process come into force on 6 April 2009. One of the most significant is the introduction of the new Householder Appeals Service (HAS). The HAS is an expedited written representations service based on electronic working. The Planning Inspectorate receives approximately 6000 Householder appeals each year. Their target is to deal with 80% of cases which they process via the Householder Appeals Service within 8 weeks.

4.0 Scope Of The Householder Appeals Service

4.1 The HAS relates to applications for development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

4.2 Once it has been determined that a householder appeal is within the scope of the HAS, the Planning Inspectorate will then consider whether it is 'suitable'. Suitability, or otherwise, may be clear as soon as an appeal is made, or as an appeal progresses, an alternate view is reached. It would then be transferred of the HAS.

4.3 For example, if an appellant raises a new material issue during the processing of an appeal, which the Council or third parties have not had a chance to comment on, this may render a case unsuitable for the HAS. In an instance like this, the Planning Inspectorate is likely to transfer the case out of the HAS and progress it down the non-expedited written representations route.

4.3 The following appeals will **not** be within the scope of the Householder Appeal Service:

- appeals against any grant of planning permission, consent, agreement or approval which is granted subject to conditions;

- appeals against non-determination of a householder application;
- appeals against Listed Building Consent (LBC) applications or Conservation Area Consent (CAC) applications. (It should be noted that if a LBC / CAC application is related to a householder application which is refused and proceeds to appeal, the householder application will be within the scope of the Householder Appeals Service. If an appeal against a LBC / CAC application is lodged at or around the same time as a related appeal against a householder application, the expedited procedure may not be suitable and instead the appeals are likely to be linked so that they can progress down the non-expedited route;
- appeals against lawful development certificate applications;
- appeals against enforcement notices;
- appeals against applications for advertisement consent.

5.0 Time limits to appeal

- 5.1 The time limits for applicants to submit householder appeals will be shortened to 12 weeks from the date of the notice of the decision giving rise to the appeal. In all other cases, existing time limits (6 months) will apply. This includes cases which are linked to householder appeals. For example, for a householder appeal which has an associated LBC appeal, whilst the householder appeal would be subject to the 12 week time limit, the LBC appeal would be subject to the existing 6 month time limit to appeal.

6.0 Changes For The Council

Application publicity

- 6.1 Unlike present notification arrangements, parties being notified about an application (e.g. neighbours) must be advised that, in the event of an appeal against the refusal of planning permission which is to be dealt with on the basis of written representations, any representations made about the application will be sent to the Secretary State, and that there will be no opportunity to comment at appeal stage. This provision will prevent interested parties including neighbours and the Parish/Town Council from submitting further evidence at the appeal stage.

Decision notices

- 6.2 Decision notices issued by the Council must specify the relevant appeal time limit depending on case type (i.e. 12 weeks for

refusal of householder applications or 6 months for all other cases).

Delegated / committee reports

- 6.3 For appeals dealt with through the Householder Appeals service, the principal parties (the appellant and the Council) will **not** have the opportunity to submit appeal statements. This means the Council will need to rely on delegated or committee reports, committee minutes and their decision notice to justify their determination at the appeal stage.

Committee overturns

- 6.4 In instances where a Committee overturns a recommendation for approval (ie the application is refused), there is still no scope to submit an appeal statement. Therefore, it will be especially important that the reason(s) for refusal are properly and fully detailed and that the Committee minutes reflect the position. It will be particularly important to demonstrate in the reason(s) for refusal that the Committee have considered the recommendation but that other considerations have outweighed the presumption in favour of development.

Provision of appeal documentation in electronic format

- 6.5 The Council will provide its appeal documentation in electronic format within 5 working days of the appeal start date to the Planning Inspectorate and the appellant. This documentation will mainly comprise an appeal questionnaire and a link to the documents comprising the application file on the Council's website.

Appeal decisions

- 6.6 The Planning Inspectorate will publish appeal decisions on the Planning Portal. Third parties will not be sent copies of appeal decisions automatically. Instead, the Council will be expected to provide any third parties with a copy of the decision if they specifically request one.

Appeal site visits

- 6.7 All site visits carried out by the Planning Inspectorate relating to a householder appeal will now be unaccompanied.

Procedural

- 6.8 Modifications have been made to the 'back office' IT planning system. These became effective on 6 April and are applied

consistently throughout the former Councils. Applicants, consultees and neighbours will be aware of the new regulations, the relevant time limits and opportunities for submission of their views.

7.0 Implementation

8.0 The new Householder Appeals Service will apply to all applications received on or after 6 April 2009.

9.0 Legal Implications

9.1 This process becomes law for appeals affecting householder applications made to the Council from 6 April 2009 onwards.

10.0 Recommendation

11.0 The Council is obliged to adopt the new procedure, abide by its terms and to give appropriate publicity to it (as described above).

12.0 It is recommended that the report is noted and that the implications are reported to the Northern and Southern Planning Committees.