

Useful Contact Information

The Planning Inspectorate

Tel: 0117 372 6372, Email: enquiries@planning-inspectorate.gsi.gov.uk

Website: www.planning-inspectorate.gov.uk/pins

Department of Communities and Local Government

Tel: 020 7944 4400, Website: www.communities.gov.uk

Mayor of London

Tel: 020 7983 4000, Email: mayor@london.gov.uk

Website: www.london.gov.uk

Planning Portal

Tel: 0117 372 6372, Email: enquiries@planning-inspectorate.gsi.gov.uk

Website: www.planningportal.gov.uk

CHALLENGING A PLANNING DECISION

Planning Aid for London

The Planning Aid Resource Centre

Unit 3.01, Whitechapel Technology Centre

65/75 Whitechapel Road London E1 1DU

T 020 7247 4900

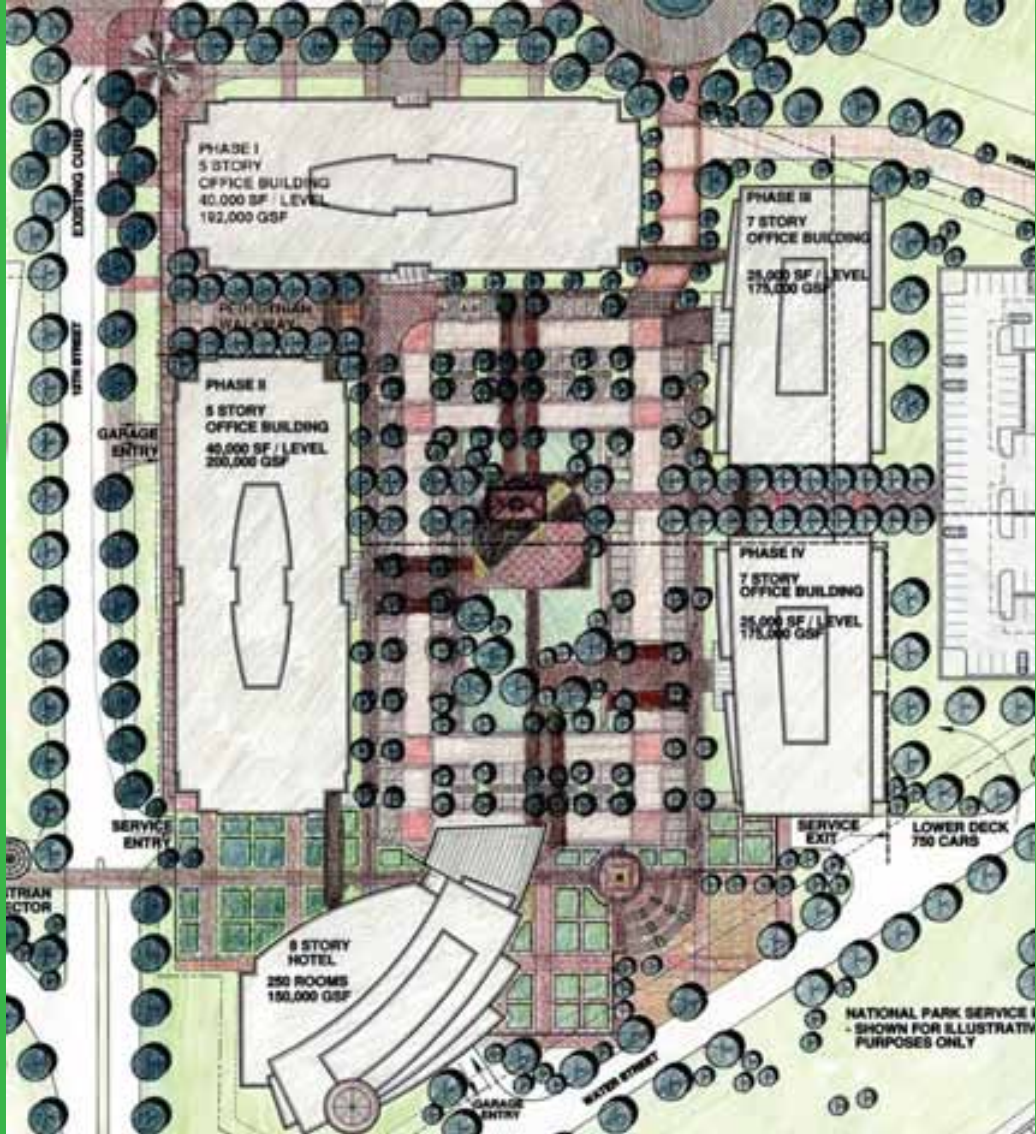
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Charity Registration No. 802943





Introduction

This leaflet provides advice on how you are able to challenge the planning decisions made by your local council.

Appealing Against the Decisions of Local Planning Authorities

As part of their planning work, local councils will make a large number of decisions on a daily basis as to what types of development they consider acceptable.

If your application for planning permission is refused, you can appeal to the Secretary of State for Communities and Local Government (SoS); when you do this, an independent Inspector employed by the Planning Inspectorate (PINS) will be appointed to consider your case. You can also appeal against any conditions that the council has placed on any planning permission and if the council has not made a decision on an application within the required time period.

Your council will also deal with other planning matters such as Enforcement Notices; Listed Building and Conservation Area Consents; Certificates of Lawful Development; Tree Preservation Orders and Advertisement Consents. There are similar appeal processes that can be used in these cases if a proposal is refused.



How are Planning Appeals Decided?

An Inspector will be appointed by PINS and the appeal will be heard in one of three ways;

- Written Representations
- Informal Hearing
- Public Inquiry

The vast majority of appeals are decided by Inspectors. However, in a small number of cases, the SoS will “Call In” an application for his/her own decision. Written Representations will be used for most appeals where the issues are straightforward; Informal Hearings will be used if there are some matters that the Inspector would like to examine in more detail and a Public Inquiry will be used for major planning applications.

A new system for householder planning appeals has been introduced in order to provide a simpler and faster process. No additional documents are needed as the Inspector’s decision will be made using only the material submitted to the council. All appeals made under this new system must be made within 12 weeks of the council’s decision.

Statutory Review

When an Inspector or the Secretary of State makes a decision on an appeal, the decision can be challenged in the High Court on a ‘point of law’ only.

A claim for statutory review can only be made by a person who is “aggrieved” by the decision. This is normally the original applicant for planning permission, or the local planning authority. Occasionally, claims can also be made by a person or group that is able to show that they were actively involved in the planning process, or by a person who has an interest in the land which is the subject of the decision under question. Any application for a statutory review must be made in writing within six weeks of the date of the decision that is being challenged.

If a claim is successful, the Court can quash the previous decision. A party which loses a statutory review claim will usually have to pay the legal costs of the opposing party, in addition to any legal costs of its own. Legal action of this type can be very expensive.

Judicial Review

An individual or group can also challenge the decision of a local planning authority to grant or refuse planning permission by making a claim for judicial review in the High Court. It is also possible to challenge certain central Government decisions relating to planning matters, if all other legal options have been exhausted.

A claim for judicial review can only be brought on a 'point of law'. Before a claim can be pursued, the detail of the potential challenge must be set out in writing and sent to the council concerned to allow it the chance to respond to the application.

In order to be able to pursue a claim of judicial review, the person or group seeking to challenge the decision (Claimant) must be able to demonstrate that it has a clear interest in the disputed matter. Any application for judicial review must be made promptly and in any event within three months of the date of the decision that is being challenged.

The Claimant has to apply to the High Court for permission to proceed with a claim before a full hearing can take place. An application for permission must be made in writing and if refused, can be renewed at an oral hearing. If permission is granted, the claim will proceed to a full hearing which will be determined in open court by a Judge. If a claim is successful, the Court has a range of powers available to it, including the power to quash the council's original decision.

If a claim is unsuccessful, you will usually have to pay the legal costs of the opposing party, in addition to any legal costs of your own. In certain limited cases, an application can be made to the High Court for a Protective Costs Order (PCO), which will limit the amount of costs you would have to pay if you were to lose. In deciding whether to grant a PCO application, the High Court will consider whether the claim is of public importance; the financial resources of the applicant and whether refusal of the application would deprive the party of access to environmental justice.

The Ombudsman

In certain cases, including the situation where a direct legal right has not been infringed by a planning decision, an individual or group can bring a complaint to an Ombudsman. The Local Government Ombudsman deals with complaints against local government. The Parliamentary Ombudsman deals with complaints against central Government.

The Ombudsman will investigate complaints where it is alleged that a member of the public has experienced an injustice due to maladministration by their council. Complaints to the Ombudsman can be made on the basis of bias, neglect of duty or that a particular decision appears unreasonable.

If a complaint is upheld, the Ombudsman can award financial compensation and order that necessary mitigation measures are undertaken by the authority found to be at fault. (Further advice is contained in the PAL leaflet entitled "Complaints Procedures and Maladministration").