

COMMON LAND GUIDANCE SHEET 3

Public Inquiry or Hearing

(i) Deciding on need for inquiry or hearing

The application processes for consent are subject to procedures which are designed to give the public an opportunity to have their views taken into account. Applicants must advertise their proposals and make copies of plans available for inspection locally so that the public can make representations to us. If there are representations, we will manage an exchange of correspondence between the applicant and those who write to us.

After these exchanges, we consider whether there is sufficient information on which a decision can be reached or whether additional information is needed and, if so, whether this can be obtained more appropriately by further correspondence or by holding a public local inquiry.

A public local inquiry or hearing can be held at our discretion depending on the individual circumstances of the case. We may decide to appoint an independent Inspector to hold a public local inquiry where the issues of the case are particularly complex; or if an inquiry appears to be the only way to obtain the necessary information in order to reach a considered conclusion on the proposals. An inquiry gives the applicant an opportunity fully to present his or her case to an Inspector, and also gives people who are interested in, or affected by, the proposal an opportunity to put across their views.

An inquiry or hearing will not be held in every case for applications under section 38. We may decide that a public inquiry, hearing or site visit is needed before we can reach a decision (see **Notes 24, 27** and **Guidance Sheet 1a**).

(ii) Venue for inquiry for hearing

Where needed, it is usual practice to hold inquiries or hearings in public halls, council buildings, council chambers or committee rooms, and some are held in hotels, schools, theatres etc.

The venue should be conveniently located for the majority of those wishing to attend; be well served by public transport; and have adequate parking facilities close by.

The venue should be well signposted and directly and easily accessible to all, without passing through other rooms or office areas. In particular, there is a duty under the Disability Discrimination Act 1995 to ensure facilities provided are accessible to persons with disabilities, and if necessary, by making appropriate adjustments. Such adjustments must have regard to the needs of people with sight or hearing impairments.

Applicants should use their local knowledge, and feedback gained from their informal consultations, to judge levels of opposition/support for their proposal. The room should be large enough to accommodate comfortably the numbers of people expected to attend. Large halls are not desirable for a hearing or an inquiry where few people are likely to attend. Similarly, small rooms are inappropriate for inquiries which are the subject of significant public interest. The room should be unaffected by noise and other disturbance associated with activities in other parts of the building or the surrounding area eg playgroups, sports and games, building works etc.

(iii) Meetings before an inquiry

If a large number of people want to go to the inquiry or the case is complicated, we sometimes arrange a meeting before the inquiry (a pre-inquiry meeting). We tell the parties if we decide to do this, and explain what the meeting will cover. A pre-inquiry meeting is held by the appointed Inspector, and covers matters such as the order in which the applicant and other people will present their evidence. The Inspector may then draw up a timetable for the inquiry proceedings, so it is helpful to the Inspector if he or she is able to find out at the meeting who is likely to appear at the inquiry.

(iv) At the inquiry

The Inspector runs the inquiry and decides on the procedure, including who speaks and for how long. The Inspector starts by introducing him or herself, then announces the subject of the inquiry and asks for the names of all those who wish to speak. The Inspector then normally explains the procedures, says how the inquiry will be conducted, and identifies the main issues to be considered.

Everyone who takes part in the inquiry follows the same rules. This is to make sure that the procedure is fair to everyone. The applicant usually presents his or her case first, and then calls any witnesses. The Inspector can ask questions and may then allow any objectors, registered commoners or others with an interest to do the same. The objectors present their case in the same way, and the applicant and the Inspector can then ask questions to them and their witnesses. The applicant has the right to make a closing statement and to have the last word, but new arguments cannot be introduced at this stage.

Anyone involved in a public inquiry is entitled to use a lawyer or other person to put their case, but this is not vital. The Inspector treats all arguments the same, whoever puts them, and makes sure that the process is conducted and reported fairly. It may be useful if a group of objectors has one spokesperson (not necessarily a professional but possibly just one of the group) to speak for them and put questions to other witnesses.

All written objections and representations we have received will be made available to the Inspector. If an objector is unable to attend the inquiry in person, he or she may arrange to be represented at the inquiry or, alternatively, can submit further written representations to the Inspector.

In certain circumstances, it may be necessary for the Inspector to adjourn the inquiry proceedings for a short time and to reopen the inquiry at a later time or date. If this is necessary the Inspector will make an announcement at the inquiry to explain the reasons.

(v) Administrative support

Applicants will be expected to provide at least one person to attend the inquiry to provide some basic administrative support to the Inspector at the inquiry, where required, such as for photo copying tasks and to resolve “domestic” issues (e.g. heating/lighting) etc. There should be a clear distinction between those appearing at the inquiry and those providing administrative support.

(vi) Decision

Decisions are made in writing and sent to the applicant, with copies to everyone who appeared at the inquiry and to all who submitted objections or representations.