

DEVELOPMENT MANAGEMENT ADVICE NOTE 7

My application was refused – what should I do next?

This is one of a series of advice notes to help our customers use the Development Management Service in Croydon. The service is responsible for the determination of planning applications and the enforcement of the planning regulations.

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INTRODUCTION

This advice note will be of use if you have had your planning application refused. It explains how you may be able to negotiate amendments and your rights to appeal against our decision on your application. Whilst the note refers mainly to applications for planning permission, the procedures generally apply to all types of planning application.

NEGOTIATING A NEW APPLICATION

Whilst you can appeal our decision, you should think very carefully before you exercise this right. The possibility of a revised application should always be considered, as it is likely to be quicker than an appeal and finding a local solution is encouraged by the Planning Inspectorate.

You should also consider the fact that if you lose an appeal you may be considerably prejudiced in future submissions. We have the right to refuse to even entertain a similar application that is submitted after an unsuccessful appeal, for a period of up to two years. There is no right of appeal against this, other than by way of judicial review, which is very expensive and time consuming.

The reasons for refusal will advise you what we thought were wrong with your application so that you can try to address these in a re-submitted proposal. If the proposal was fundamentally contrary to policy, it is unlikely that negotiations can overcome this. If you want to negotiate a revised application you should contact the planning case officer for your application to see if there is scope to amend it to make a more favourable outcome more likely. The best way forward might be to submit a revised proposal by way of the pre – app service <https://www.croydon.gov.uk/planningandregeneration/duty-planning-officer-service> . Once again the planning case officer will assist you with this process. You must remember that negotiations will be without prejudice to the formal consideration of any revised proposal you may submit.

Even after an appeal has been lodged we are willing, where appropriate, to see whether an acceptable solution can be achieved by submitting a new application.

WHAT ARE YOUR RIGHTS OF APPEAL?

There are certain circumstances when the applicant has the right to make an appeal to the Secretary of State. For applications for planning permission these are if:

- we refuse planning permission;
- we do not approve the details of a scheme following the grant of outline planning permission;
- we refuse the details submitted to comply with a condition on a planning permission;
- we have not determined your application within the statutory period (either 8, 13 or 16 weeks depending on the type of application) and you have not been requested to and agreed to an extension of that period; or
- you were granted planning permission or details have been approved, but it is subject to one or more conditions that are not acceptable to you.

Similar rights of appeal exist for other forms of application. The procedures are generally similar to those outlined in these pages. There is no provision in the legislation for people other than the applicant to appeal against a council's decision (for example, a neighbour who objected to a development in their area) however they would be consulted on any appeal and can be involved in it.

IS AN APPEAL LIKELY TO SUCCEED?

Appeals are dealt with purely on their planning merits. Across the country about one third of appeals are successful. Within Croydon, generally less than 35% of appeals succeed.

THE APPEAL PROCESS

The Planning Inspectorate, a central government agency, administers planning appeals. The appeal is usually decided by an independent Planning Inspector, appointed by the Secretary of State, and entirely independent of the London Borough of Croydon.

There are three basic methods by which an appeal can be decided:

- **Written Representations** an exchange of written statements followed by a visit to the site by the Planning Inspector. This usually take about 26 weeks to decide. The Inspectorate have introduced a Householder Appeal Service seeking to streamline householder appeals in which the Council's statement comprises the case officer's report on the application.
- **Informal Hearing** a public hearing chaired by the Planning Inspector which takes the form of a discussion with both parties; the council and the applicant. Usually takes about 22 weeks to the date the hearing opens.
- **Public Inquiry** a formal inquiry that is similar to a court of law, usually with professional representation on both sides and the Planning Inspector taking the role of the judge. Usually takes about 22 weeks to the date the inquiry opens.

Please note that the indicated timescales are the Inspectorate's normal targets. Actual times have been longer than this due to the Inspectorate's workload.

The most common method is written representations, especially for household developments. Objectors and other people interested in the application are consulted on the appeal and can be involved.

IS THERE A TIME LIMIT ON APPEALS?

You must send your appeal to the Planning Inspectorate to arrive within six months of the date of the notice giving our decision or, if one has not been given, six months from the date by which the decision ought to have been made. This gives you time to sort out whether you can overcome our objections in other ways, either by negotiation or by amending your proposal. Enforcement appeals usually have to be made within 28 days of the service of the enforcement notice.

For householder developments the time limit is 3 months, but they are subject to a fast-tracked procedure which aims to produce a decision in 8 weeks.

HOW DO YOU LODGE AN APPEAL ?

With all three methods, the starting point is the same: you, or your agent, must contact the Planning Inspectorate and request the appropriate appeal form. The best way to do this is online at planning-inspectorate.gov.uk. If you do not wish to use the Internet, the Planning Inspectorate's address is Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN. The telephone number is 0303 444 5397.

Please ensure that you follow the advice given by the Planning Inspectorate, as a failure to do so can invalidate your appeal.

CAN YOU USE AN AGENT?

You can use an agent to submit your appeal for you. This can be a planner, an architect, a surveyor or other professional adviser. All discussions and negotiations about your appeal will take place directly with your agent. All correspondence from us and the Planning Inspectorate, including the decision letter, will be sent to him/her.

HOW MUCH WILL AN APPEAL COST?

Other than enforcement appeals, there is no charge for making an appeal but you will inevitably incur some expenses in presenting your case. The cost involved will depend on the procedure to be followed and on the complexity of the case and, of course, whether you lodge the appeal yourself or employ an agent.

The council, the developer and (in some circumstances) other people involved in an appeal, may apply for costs against one of the other parties for "unreasonable" behaviour; for example, failures to submit documents or attend a meeting. It would have to be shown that unnecessary costs had been incurred as a result of this behaviour. An award of appeal costs is not made on the basis of who "wins" the appeal.

The arrangements for awarding costs are explained in detail in government Circular 03/09, "Costs Awards in Appeals and Other Planning Proceedings". You can get this from The Stationery Office (www.tsoshop.co.uk). There is further information in the government's booklet "Costs Awards in Planning Appeals: A Guide for Appellants" which can be obtained from the Planning Inspectorate (www.planning-inspectorate.gov.uk).

FOR FURTHER INFORMATION OR HELP

The Planning Inspectorate's web site (planning-inspectorate.gov.uk) contains the forms needed to make appeals and a large range of publications to assist you in making or taking part in an appeal.