

## DPEA Guidance Note 6

### Site inspections

Each case is unique and must be considered on its merits. It is for the person appointed to determine the case to satisfy themselves that the application of the practice contained in this note is appropriate to the circumstances of the case. A reporter who intends to depart from the guidance should advise the Duty Principal Reporter so issues emerging can be considered for future case work.

<p>Guidance note for:</p>	<p>Reporters and parties</p>
<p>Relating to:</p>	<p>This note relates to cases progressed under the Town and Country Planning (Appeals) (Scotland) Regulations 2013. These are:</p> <p><b>Planning Permission appeals (PPA) Enforcement Notice appeals (ENA) Certificate of Lawful Use or Development appeals (CLUD) Tree Works Consent appeals (TWCA) Tree Replacement Enforcement Notice appeals (TENA) Amenity Notice appeals (ANA) Planning Obligation Appeals (POA) Good Neighbour Agreement Appeals (GNAA) Listed Building Appeals (LBA) Conservation Area Consent Appeals (CAC) Listed Building Enforcement Appeals (LBE) Advertisement Consent Appeals (ADA) Advertisement Discontinuance Notice Appeals (ADD) Advertisement Enforcement Notice (ADE) Applications for urgent Crown development</b></p>
<p>Background/ legislative and policy framework:</p>	<p>The <a href="#">Town and Country Planning (Appeals) (Scotland) Regulations 2013</a> set out details regarding site inspections, additional details are contained within Circular 4/2013.</p> <p>Regulation 12 provides that a reporter may choose:</p> <p>(a) whether or not to inspect an appeal site, and</p> <p>(b) whether the inspection will be accompanied or unaccompanied.</p>

	<p>The Regulations ) require that:</p> <ul style="list-style-type: none"> <li>• where an inspection is to be <b>unaccompanied</b> the appellant, the planning authority and interested parties <b>will be advised</b> of such intention (no date or time need be given).</li> <li>• where an inspection is to be <b>accompanied</b> the appellant, planning authority and those interested parties who (where applicable) have opted in <b>must be given notice</b> of the date and time. In planning permission, listed building, or advertisement consent appeals, an interested party is any consultee or third party who submitted representations to the planning authority. In appeals relating to enforcement notices, tree replacement enforcement notices, amenity notices, listed building enforcement notices, advertisement enforcement notices, and advertisement discontinuance notices, an interested party is a person to whom the appeal was notified and who has made representations to DPEA. In planning obligation appeals, the interested parties are the owner of the land and any other person against whom the obligation is enforceable. In good neighbour agreement appeals, the interested parties are the community body, the owner of the land, and any other person against whom the obligation is enforceable.</li> <li>• The reporter is not obliged to defer the site inspection if any of the parties or interested persons are not present or available on the set date.</li> </ul>
<p>DPEA practice:</p>	<p>Regulation 7 allows the reporter to determine an appeal without further procedure.</p> <p><b>It is for the reporter to determine whether a site inspection is necessary</b> on a case by case basis. The purpose of the site inspection is to obtain further information that is essential for the determination of the appeal.</p> <p>Guidance Note 7 “No Further Procedure” sets out examples of where a site inspection may <b>not</b> be required. One such example is where the evidence submitted is not in dispute and is sufficient to enable a decision to be taken.</p> <p>The appeals process should be proportionate and efficient. Experience during COVID-19 travel restrictions demonstrated that sufficient information could be obtained by a desk based assessment, through the use of photographs, Streetview extracts, video clips and other means. It is important, having regard to sustainability and proportionality, that these efficiency gains are maintained.</p>

In particular, CLUD and enforcement cases (including those relating to short-term lets) do not require an assessment of the planning merits of the use. In such cases, the submissions will often be sufficient to demonstrate whether or not the use is lawful or whether there has been a breach of control. Site inspections are seldom informative or necessary in these cases.

If a site inspection is required, the reporter must decide **whether this should be accompanied or unaccompanied.**

In deciding whether a site inspection should be accompanied or unaccompanied, the reporter should consider whether the further information required can be obtained on the basis of an unaccompanied inspection. In many cases an unaccompanied inspection will be all that is required to obtain the necessary information.

**An inspection should not be carried out on an accompanied basis simply because one or more of the parties has requested this**, or because there are a lot of interested parties. The reporter must consider whether there are features of the appeal or the site that would make it appropriate for the inspection to be carried out on an accompanied basis. Situations where it may be preferable for a site visit to be accompanied are:

- To obtain physical access to the site or premises. If this involves the reporter meeting one party, however briefly, then consideration should be given to an accompanied site inspection in order to avoid any perception of bias
- Where there is a need to view or access the site from private land or property (for example, from an objector's home) another party may be concerned about the reporter being influenced by that contact.
- Where there is any possibility that the reporter's health and safety may be compromised. This may include visits to remote locations, industrial/operational or vacant premises.
- Where the presence of parties is necessary to identify or explain a particular feature of the site, development or location.

The potential for people to approach the reporter during an unaccompanied site inspection is not, generally, a sufficient reason to justify an accompanied inspection. If approached by the parties or others the reporter should explain the purpose of the site inspection and make it clear that he/she cannot discuss the appeal or hear evidence about the merits of the development.

<p>Process:</p>	<ul style="list-style-type: none"> <li>• The administration team will make an initial assessment and suggest whether a site inspection is likely to be required. The caseworker will base this assessment on a review of the appeal as submitted and the criteria listed above.</li> <li>• The reporter will review the case and confirm whether a site inspection is required. If so, it is for the reporter to determine if it should be accompanied (note that both the appeal form and the PARF include views about the accessibility of the site).</li> <li>• The reporter will advise the case officer whether the site inspection is to be accompanied or unaccompanied.</li> <li>• If unaccompanied, the reporter should advise the case officer of the intended date prior to undertaking the site inspection.</li> <li>• The case officer will advise the appellant and planning authority that the reporter will be undertaking a site inspection, indicating in the letter whether it is to be an accompanied or unaccompanied site inspection. If accompanied, times and date and an invitation to attend will be given. <b>In the case of accompanied site inspections, the appellant and planning authority must, by return, advise DPEA if they are unable to attend.</b></li> <li>• If accompanied, the case officer will advise interested parties who (where applicable) have opted in of the date and time of the site inspection, giving a <b>minimum of 7 days'</b> notice.</li> </ul>
<p>During an accompanied site inspection</p>	<ul style="list-style-type: none"> <li>• The reporter will introduce the attending parties and explain the purpose of the site inspection.</li> <li>• The merits of the proposal cannot be discussed, and no new evidence can be introduced.</li> <li>• Parties may wish to draw important features of the appeal site and its surroundings to the reporter.</li> <li>• The reporter will bring along any necessary plans for their own reference and a tape measure if required. The reporter may seek the assistance of the parties in measuring and verifying important distances. In high hedge cases, the reporter may request that the planning authority assists by</li> </ul>

	<p>bringing along suitable measuring equipment and undertaking the measurement of the hedge in question.</p> <ul style="list-style-type: none"><li>• It is helpful if the appellant and council representatives have knowledge of the site and surroundings and are also able to access relevant plans during the inspection.</li><li>• The parties, and certainly the representatives of the appellant and the planning authority, should at all times stay close to the reporter. This is so that all parties can hear any questions asked by the reporter together with the responses of the other parties.</li><li>• If the reporter requires to visit nearby sites for comparison with the appeal site, this will normally be done unaccompanied.</li></ul>
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