

July 2012

THE STATUS OF PARISH, TOWN AND COMMUNITY COUNCILS AT PUBLIC INQUIRIES

Introduction

1. Some time ago, the Association received a complaint in respect of a report that had been prepared by an Inspector after a Public Inquiry. In the formal list of appearances the Parish Council's representative (who was its chairman) was listed under 'Other Persons' and the Council's case was dealt with in the same paragraph as that of individuals who took part in the Inquiry. The Council was not separately identified, as were the two principle local authorities. Since Parish Councils are local authorities with a defined status in planning law and at Inquiries, the Association sought confirmation from the appropriate Department at the time on the instructions given to Inspectors as to the status to be accorded to Parish Councils at Inquiries.
2. The **Chief Planning Inspector** replied as follows: -

"Inspectors hold some 2,000 local inquiries into planning appeals every year and town, parish or community are frequently represented at these. We share your concern that representatives should be accorded their proper status and that due weight should be given to their evidence.

Parish councils are entitled to appear at these inquiries in the circumstances set out in Article 7(1) of the Inquiries Procedure Rules 1974 No. 419 and in Article 9(1) of the Inquiries Procedure rules 1974 No. 420 which gives them a statutory right to be heard, unlike 'interested persons' who appear at the discretion of the Inspector. In practice, Inspectors normally hear everyone (whilst avoiding repetition so far as is possible), but persons with a statutory entitlement to be heard (parish councils and parties appearing under section 29, for example) would generally take precedence over persons without those rights. On occasions, of course, the parish council witness may be

called by the local planning authority (or by the appellant) and so appear as part of their case; a separate appearance would then be inappropriate.”

Inspectors are advised to check specifically whether the town/parish or community council is represented. There may on occasions be a problem, however, in identifying a parish council’s submission as such where the representative does not state clearly (and justify, if challenged) his appearance on behalf of the council – simply saying he is the chairman may not be sufficient. Certainly, if he appears as a consequence of a motion passed at a meeting it would be helpful to say so.

When writing a decision letter or report it is customary for an Inspector to identify the cases of the parties. Hence where the parish council has put in a separate appearance we would expect their evidence to be distinguished from that of other parties and for a subheading to appear in the list of appearances appended to the letter or report we will remind Inspectors about this.”

National Association’s Comment

3. The Regulations have been updated since the communication was received by the Chief Planning Inspector but the principle remains the same. The right of a local council to attend planning inquires can now be found in regulation 11(1)(f) of the Town and Country Planning (Inquires Procedure)(England) Rules 2000 (SI. 2000/1624). The right is granted where the “council made representations to the local planning authority in respect of the application in pursuance of a provision of a development order.”

4. Public Inquiries are formal proceedings and therefore, quite apart from the advantage of securing proper descriptions in the Report, there is every reason for a Parish Council’s representative to appear with a degree of formality by opening his statement thus or in some similar terms: -

“My name is ----- and I live at ----- . I am the /Chairman/ or Clerk/ or a councillor/ of the ----- Council and I am authorised by the Council to appear at this Inquiry to represent the Council and present its views on the /planning appeal/ or whatever is the subject of the inquiry/. The Councils views were decided at a meeting of the Council held on ----- at which I was present.”

Other Legal Topic Notes (LTNs) relevant to this subject:

LTN	Title	Relevance
58	Planning	Sets out the Planning appeals system
83	Neighbourhood Planning	Sets out the procedure for obtaining a Neighbourhood Development Plan or Neighbourhood Development Order.

© NALC 2012