

CHANGES TO THE PLANNING SYSTEM FROM APRIL 6TH 2009

Central Government has recently published a number of Statutory Instruments bringing into force aspects of the Planning and Compulsory Purchase Act 2004 that have not previously been activated. Below is a summary of the major changes taking place:

Twin Track Abolished

On the 6th April new provisions come into force that will allow LPAs to refuse to determine similar planning applications submitted at the same time or in close succession, thus **ending the ability to twin-track applications**. The legislation will also apply to listed building applications and conservation area applications.

The legislation makes no transitional provisions. As such there is some concern that from the 6th April Councils could choose to backdate implementation of the legislation to include applications already in the system.

In summary, as of the 6th April an **LPA can refuse** to determine an application that it considers to be **too 'similar'** to a previous application if:

As an example:

- A similar application for the site in question has already been granted or refused by the LPA and the time in which an appeal can be made has not expired.
- The LPA is currently deciding another application that it considers to be 'similar' to the second application submitted.
- A similar application is currently being considered by the Planning Inspectorate.
- An application has been 'called in' by the Secretary of state and no decision has been reached.

There are no detailed criteria against which to establish whether a new application is 'similar' to a previous submission. It is down to the Council to decide on a case by case basis. Guidance on the validation process states that you can appeal a Council's decision not to register an application on the grounds of non-determination. However, any suggestion you can appeal an invalid application appears to contradict existing legislation and it is unclear whether you would be required to wait for the appropriate determination period to expire before pursuing any such appeal!

Changes to the Definition of a Sports Pitch

From the 6th April the definition of a **playing pitch** will be amended to **include facilities larger than 0.2 ha** (the present threshold is 0.4 ha). For the first time the definition will include junior rugby, cricket and football pitches and Sport England will become a Statutory Consultee on proposals that affect their use. These changes are only relevant to applications submitted after the 6th April.

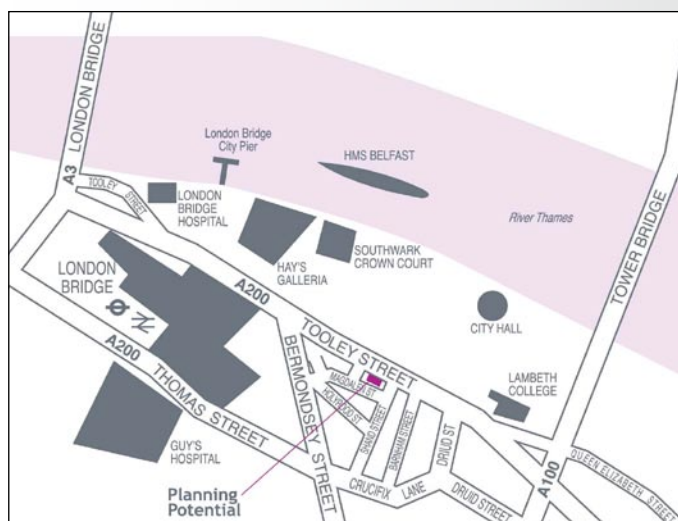


Changes to the Appeal system

From the 6th April 2009 the following changes will take place:

- **Determining the Appeal Method:** The Appellant and Council will still make known their preference for the type of Appeal. However, the Planning Inspectorate will make the final decision.
- **Householder Appeals:** The time available to Appeal against refusal of a Householder Application will be reduced from 6 months to 12 weeks. Once submitted the Inspectorate will have 8 weeks to decide the Appeal.
- **Comments on Statement of Case:** The main parties in an Appeal will no longer be able to submit final comments for hearings or inquiries at the 9 week stage.
- **Statement of Common Ground:** This will be required 6 weeks after the Appeal has started.
- **Slip Rule:** There is no longer a requirement to correct an error in a Planning Inspector's Decision under the "Slip Rule" (ie. a minor error that does not materially affect the decision).
- **Written Representation Appeals:** Parties to an Appeal will be able to apply for costs in written representation cases. A revised Circular on Costs is in preparation.

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