



# The Planning Inspectorate

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Michelle Sacks  
Deputy Chief Executive  
Boston Borough Council  
Municipal Buildings  
West Street  
BOSTON  
Lincs  
PE21 8QR

Your reference:

Our references: 3210572, 3211205, 3222165

Date: 12<sup>th</sup> September 2019

**By email**

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Dear Ms Sacks

Thank you for your letter of 23 August to the Chief Executive and your kind remarks about recent reforms to the planning appeal system.

Our published feedback procedures

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/730088/Procedural\\_Guide\\_Planning\\_appeals\\_version\\_2.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730088/Procedural_Guide_Planning_appeals_version_2.pdf) (in particular annexe Q) explain that we do make every effort to ensure everyone who takes part in the appeal system is satisfied with the service they receive from us. We will investigate any concerns and please accept my assurance that it is fully understood that these matters are inherently contentious and can give rise to disappointment or concern. I do therefore acknowledge your remarks in relation to the intention of your correspondence.

I am sure that the content of the general remarks I make below is familiar to you but I set them out for the avoidance of doubt.

Only the High Court can formally identify a legal error in, definitively comment on, or hold what constitutes a material consideration or unreasonableness in a planning appeal decision and I note your comments in respect of the council's decisions about whether to seek judicial review of appeal decisions within its purview. However, my comments about this or any appeal decision can only be made in general terms and neither I nor the Inspectorate can make any binding interpretation of its Inspectors' decisions. In this regard, please see the proviso\* below my signature.

Inspectors are appointed to make decisions on development proposals based on their assessment of the planning merits of the case. They reach their decisions and supporting conclusions using professional planning judgement, having carefully considered and weighed in the planning balance all of the submitted evidence and having viewed the site and its surroundings to place this evidence into context.

It is, however, settled law that an Inspector is deemed to have duly considered all



the evidence submitted without necessarily referring explicitly to all of it. The purpose of an appeal decision letter is to summarise the principal reasoning behind the conclusions reached and an Inspector will not record in detail every material consideration or argument and decisions should be read as a whole.

Decisions are reached openly, fairly and impartially, and are based on the degree of compliance of each proposal with local planning policies embodied in the local plan, which is the starting point for decisions in law. Would the development be in accordance with the local plan and if not are there material considerations which indicate otherwise and mean that permission could be granted?

This remains the paramount test any proposal must pass and I would emphasise the reference to material considerations indicating the possibility of permission being granted for development not in accordance with the LP. The importance of the development plan within a plan-led system is a major factor that Inspectors necessarily weigh in the planning balance but would not necessarily refer to explicitly.

It is vital that the Inspectorate meets its quality targets and that, with due acknowledgement of your comments, it be satisfied that its decisions are fit for purpose. Please accept my assurance that the Inspectorate is actively working on continuing to improve all of the practices and procedures within its remit. Its knowledge and policy unit necessarily keeps Inspectors fully apprised of all developments in case law, ministerial policy statements, local plan developments and all other germane policy developments.

With respect to your comments about the decisions you have highlighted, I can only therefore reply within the constraints I have outlined above.

With respect to the apparent inconsistency between the decisions you refer to I am afraid I can only refer you to my remark above about the decisions being the outcome of weighing in the planning balance the submitted evidence for the specific case and I note the acknowledgments of this throughout your letter.

With due regard to the proviso below my signature, it seems to me that the Inspector in appeal decision 3211205 at DL23 adequately acknowledged conflict with policy 1 of the SELLP but made it clear that that conflict was outweighed by the material considerations he outlined elsewhere in the decision. You acknowledge that it *arguable* that he did not consider NPPF12. Here I would refer you to my remark above about Inspectors not having necessarily to refer explicitly to every material consideration or argument. He acknowledges in DL12 the council's identifying a 5YS. I note your explicit acknowledgement that he *disapplies national policy on sustainable transport in isolated rural areas...in [your] view*. That is not our view.

I note your comment about decisions, and 3211205 and 3222165 in particular, being likely to affect other applications and appeals in your locality. In that regard I can only ask you to accept again my assurance, which you acknowledge in any event, that every decision is made on its merits and although other appeal decisions may constitute material considerations in a case, as these may indeed in future, they will not necessarily be determinative. Despite apparent similarities rarely, if ever, will different applications for planning permission be identical in all respects.

I am afraid the Inspectorate cannot accept your invitation with regard to mutual training sessions or meetings with your officers and members but I have

forwarded this correspondence to our Director of Strategy who is looking at customer engagement and would thank you for the suggestion and offer.

As I said above, your concerns are acknowledged but I hope I have provided some clarification.

Yours sincerely

Ian Kane

Customer quality officer

\*This communication does not constitute legal advice.