



## Enforcement Appeals: Deemed Planning Application (DPA) Fee Frequently Asked Questions

If you have a query about the fee in relation to your Enforcement Notice appeal please check these FAQs first. If your query is still not answered please contact us using the details on our letters.

If you have already paid the fee please let us know ASAP.

### **Q1. Do I have to pay a fee?**

No, there is no fee for the appeal itself, you only have to pay a fee if you would like the Inspector to consider granting planning permission for the development in the notice (ground (a)). There is no fee for the other grounds of appeal. In a few circumstances the DPA may be fee exempt (see Q10 below).

### **Q2. I've not pleaded ground (a), why have you sent me a fee request?**

We send a fee request in all cases, whether ground (a) has been pleaded or not. This is because it is the only ground that would lapse and cannot be resurrected if certain actions are not done by a date set by us. If you do not wish to have planning permission considered you do not need to do anything. Once the fee date has passed with no action we will then write to formally lapse the DPA. It cannot then be added to your appeal later.

If, however, you decide that you do wish for permission to be considered you will need to pay the fee and formally plead ground (a) and submit your arguments (why you think permission should be granted) by the date in our fee request letter.

### **Q3. How much is the fee?**

The fee amount is set out on the Enforcement Notice; it is twice the amount of a standard planning application for the development and is set out in the Explanatory Notes attached to the Enforcement Notice. If you have a query about the amount you should approach your local planning authority. If it is not resolved by the fee deadline please ask us for an extension to the fee deadline before it expires.

### **Q4. Can I pay part of the fee if I only want to apply for planning permission for one element of the breach?**

No, the DPA relates directly to the breach as worded on the notice. There is no provision to pay only for part of the breach. If the breach includes two (or more) separate elements and you would only like planning permission considered for part (i.e. you don't want to pay the full amount) then you could speak to your local planning authority about submitting a planning application for that element (but please refer to Q6 and Q7). If you pay the full fee the Inspector will consider granting planning permission for the whole breach. If one element of the breach succeeds on another ground you may be eligible for a partial refund (see Q8).

### **Q5. Who do I pay the fee to?**

The full fee should be paid to your Local Planning Authority, who will then confirm to PINS that it has been paid. If you have any problems paying the fee please ask us for an extension to the fee deadline before it expires.

### **Q6. When should I pay the fee by?**

Our fees letter sets a deadline by which time you must pay the amount set out on the Explanatory Notes on the Enforcement Notes to the local planning authority. The need to pay a fee would have been referred to on the Enforcement Notice, our guidance documents, the appeal form and, if you completed your appeal on the Appeals Casework Portal, on the auto-response confirming receipt of the appeal. Please note that requests to extend the fee payment deadline (which must be made in writing before the fee deadline expires) may be refused.

### **Q7. What happens if I do not pay the fee and/or add ground (a) by the date in the fees letter?**

If you do not pay the full fee (as set out on the Enforcement Notice) and plead ground (a) with your reasons (if not done with the submission of the appeal) by the fee due date the deemed planning application/ground (a) will lapse and cannot be resurrected. The Inspector therefore will not be able to consider planning permission on your enforcement appeal.

If your only ground of appeal is ground (a) and the fee is not paid by the due date your whole appeal will lapse and cannot be resurrected.

**Q8. If there are multiple appellants against the same notice do we all have to pay the fee?**

The fee only has to be paid, or be exempt, on one appeal against the notice for the Inspector to consider planning permission. However, if that appeal is withdrawn the fee/deemed application cannot be transferred to another appeal and therefore the Inspector would not consider if planning permission should be granted.

**Q9. I've already submitted a previous planning application for the same development in the last 12 months; can the DPA be my 'free go'?**

Yes, Regulations 8 and 9 of the 2012 Fees Regulations apply, *providing* all the conditions are met. The LPA will be asked to confirm if it applies.

**Q10. Is the DPA fee exempt?**

There are a few circumstances in which no fee needs to be paid:

- 1 – If the appellant submitted (and paid the relevant fee for) a planning application to the local planning authority for the same development before the notice was issued and the time for determining the application (usually 8 weeks) has passed, but the application was not determined by the issue date of the notice (N.B., if the application is still within the 8 weeks for determination you may be barred from pleading ground (a) but may later be able to appeal the planning decision);
- 2 – If the appellant submitted a planning appeal to us following a planning application for the same development before the effective date of the notice which had not been determined by the effective date;
- 3 – If the development is required solely for the provision of facilities to secure the health, safety or comfort of a disabled person or to provide disabled access, e.g. ramps, disabled toilets etc. Please note, this exemption does not apply simply if the appellant is disabled.

If we determine your appeal to be fee exempt and you would like the Inspector to consider granting planning permission you will still need to formally plead ground (a) and submit your arguments as to why you think permission should be granted by the date requested on our fee request letter.

In all other circumstances the fee is due if you would like the Inspector to consider granting planning permission (ground (a)).

**Q11. Are there any circumstances when I would receive a refund of my fee?**

You may receive a refund from the LPA in the following circumstances:

- 1 – If you withdraw the whole appeal (i.e. not just ground (a)/DPA) at least 21 days in advance of the event (inquiry, hearing or site visit date);
- 2 – If the Inspector determines that the enforcement notice is a nullity or is invalid as it contains a defect that cannot be corrected; or
- 3 – If the appeal succeeds on grounds (b), (c), (d), (e) or (f).

In addition, you may receive a partial refund if the Inspector varies the notice and a lesser fee would have been due.

N.B. PINS does not organise fee refunds; if you believe you are due a refund please contact your local planning authority.

**Q12. What is the relevant legislation?**

The Town and Country Planning Act 1990 (as amended) - Part VII Enforcement

The Town and Country Planning (Enforcement Notices and Appeals)(England) Regulations 2002

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 - Regulation 10 (as amended).