

Planning enforcement during the lockdown – is mediation the solution?

Due to the current Coronavirus lockdown, PINS has postponed all hearings and inquiries indefinitely. It isn't clear when they will be rescheduled, and even after lockdown ends, social distancing rules may be retained for some time. This has major implications for all planning appeals, but enforcement cases in particular.

PINS is piloting a scheme for 'virtual' or remote hearings but this will prioritise the most 'suitable' cases, and in any event the proposed pace is glacial: the latest suggestion is that remote hearings are six months away. Once this comes on stream the priority cases will almost certainly exclude enforcement appeals, because:

- Most involve cross-examination, which is less well-suited to remote technology;
- They aren't included in the Rosewell timescales (meaning less pressure to get them done quickly).

So it is likely that enforcement appeals will be significantly delayed. In the meantime, the harm that lies behind every case is ongoing. There are good reasons to look for imaginative ways of resolving these.

Could mediation provide the answer?

Mediation is the use of a neutral, qualified, third party to facilitate a negotiated settlement to a dispute. Almost any dispute can be mediated, whether or not it has reached litigation. It is an entirely voluntary, confidential, and without prejudice process.

Enforcement cases are particularly well-suited to mediation: often the issues are complex and inter-related, and there might be a compromise solution that satisfies all parties, including third party objectors, that the more rigid appeals process cannot deliver. Mediation is not constrained by rules of procedure or powers of inspectors on appeal – the process is flexible and can be adapted to each case, and accordingly is well placed to provide imaginative solutions that are acceptable to all stakeholders.

Importantly, mediation can be, and is being, delivered remotely right now with striking success – using Zoom and other platforms. It is straightforward, cheap, can be arranged swiftly and completed in less than a day, and the usual outcome is a binding agreement, which in a planning case could also be secured by a unilateral or bilateral undertaking on the land.

How, and how much?

Harry Spurr, of IPOS Mediation, and Josef Cannon, of Cornerstone Barristers, are both experienced planning lawyers and mediators. They are offering mediation to resolve your planning enforcement case quickly and inexpensively.

Rates are flexible and depend on the circumstances, but a typical mediation for a planning enforcement case might cost between £1000 and £2500 per party, in total.

To discuss how mediation works and whether it might help to resolve your enforcement dispute, please do contact us using the details below:



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