

Written Materials

Remote Events: where are we now?

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Webinar: Friday 6th November, 2pm.

(Registration details can be found [HERE](#))

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Top tips for success at virtual planning events

Authors: Dr Ashley Bowes | Ruchi Parekh

Covid-19 forced the planning world to quickly adapt to the digital age and for now, at least, remote events look like they are here to stay. At the time of writing, all events remain virtual. This paper offers top tips on how to navigate remote events, looking first at appeals and local plan examinations, followed by Planning Court hearings.

APPEALS AND LOCAL PLAN EXAMINATIONS

Where we are

Planning inquiries, hearings and local plan examinations continue to take place over MS Teams. The distinguishing features of the virtual events are:

- Greater case management required.
- Sitting days comprise three 90-minute evidence sessions.
- Documents require careful management.

PINS is presently considering whether blended events may be possible in the late autumn. The idea here would be that the main parties would be in the same room but other participants or those wishing to observe would access the event remotely.

What you need to think about before the virtual event

Things to think about in advance of the event are:

- Should you object to the event being virtual?
 - The Government places substantial emphasis on keeping the system moving.
 - The 13 May 2020 WMS explains that events should proceed virtually and expects everyone in the process to engage proactively.
 - It follows that it is likely only to be cases where witnesses are essential but the effects of the Pandemic or their technological resources/expertise prevent their participation where events will be adjourned pending an in-person hearing.
- How documents can be accessed electronically, by the public and at speed?
 - Invest in document management software which enables hyperlinking and bookmarking.
 - Liaise with the planning authority as to who is going to host the documents.
 - Not all planning authorities have the systems to host all the appeal documentation.
 - A separate inquiry website may be required.
- Where are you going to conduct the inquiry?
 - Can all your team be safely accommodated in one place?

- If not, you need a reliable way of communicating during the sessions.
- WhatsApp works well for groups.
- Start the expert dialogue early:
 - Post-Rosewell, topic-specific statements of common ground are the norm but they are also essential to ensure the virtual event runs smoothly.
 - After the exchange of evidence, taking the lead on a scott schedule can help frame the issues in dispute in your favour and ensure the inspector can case manage the virtual event most effectively.
- Site visits are likely to be unaccompanied for some time so if a site visit is necessary, start the process for an agreed route before the inquiry begins. Make sure you involve any Rule 6 Parties and interested groups in the route planning to avoid delays at a later stage.
- PINS will want to run a test-event in the week leading-up to the inquiry, so ensure that some time is available for the key participants in the team to take part.

What to think about during the virtual event

- It is wise to agree a protocol for giving evidence:
 - Ask witnesses to confirm before they give their evidence that they are alone and have closed-down their means of communicating with you and your team.
- When a witness is not giving evidence, agree on a secure means of communication (if not in the same room) and check it works.
 - Do **not** use the messaging function on MS Teams.
- Circulating documents during the event is time consuming and will cause delay. It is therefore sensible to ensure new documents (including opening submissions) are filed before the hearing session starts.

PLANNING COURT HEARINGS

Where we are

The Planning Court continues to hear cases remotely, mostly via Skype for Business. The appellate courts are similarly holding virtual hearings.

There is now a compendium of guidance on remote hearings and the following should be reviewed:

- Administrative Court office guide – COVID-19 measures (updated 8 June 2020)¹
 - Applicable to the Planning Court.
 - Contains detailed guidance on filing and responding to claims and appeals.
 - Contains detailed guidance on electronic bundles as well as sanctions for non-compliance.
- Civil Justice in England and Wales: Protocol regarding remote hearings²

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897657/R CJ_Admin_Court_Guidance.pdf.

- Remote hearings to be used wherever possible.
- Contains guidance on electronic bundles.

- Mr Justice Holgate's "top tips" on remote hearings³
 - Six tips focusing on succinct skeleton arguments, efficient bundles and the need for a core bundle.
 - Advises parties to keep under review the merits of their respective cases and to concede points with no merit as early in the proceedings as possible.

Helpfully, the various guidance on electronic bundles has been collated and set out by David Elvin QC (sitting as a Deputy High Court Judge) in *R (Thurloe Lodge Ltd) v Royal Borough of Kensington and Chelsea* [2020] EWHC 2381 (Admin) at §§14-19.⁴

The changes to the Civil Procedure Rules – via Practice Directions 51Y and 51ZA – are also still in force and should be consulted if relevant (most likely to be the case if considering extensions of time).

What you need to think about before the virtual hearing

Things to think about in advance of the hearing are:

- The latest rules and guidance
 - This is a shifting landscape so make sure you are up to date on the latest rules and guidance.

- Electronic bundles
 - The importance of filing electronic bundles that are compliant with the guidance cannot be overstated.
 - Start dialogue between the parties at an early stage to agree the contents of the bundle; consider whether a core or "micro bundle" is all that is needed.
 - Do not mess up on pagination!

- Keep merits of your case under review
 - Consider dropping hopeless points as soon as possible.

- Your location
 - Consider if your team can be safely accommodated in one place
 - If not, you need a reliable way of communicating during the hearing; Whatsapp works well for groups and is faster than relying on emails.

- The court will usually want to run a test-call, so ensure that some time is available for the key participants to take part.

What to think about during the virtual hearing

- Agree how to communicate (securely) with your team if not sitting together.

² https://www.judiciary.uk/wp-content/uploads/2020/03/Remote-hearings.Protocol.Civil_GenerallyApplicableVersion.f-amend-26_03_20-1-1-1.pdf.

³ <https://cornerstonebarristers.com/cmsAdmin/uploads/mr-justice-holgate-s-tips-for-advocates.pdf>.

⁴ <https://www.bailii.org/ew/cases/EWHC/Admin/2020/2381.html>.

- Adopt usual etiquette of virtual events (mute yourself if not speaking).
- In all other respects, it should be business as normal.

Conclusions

When approaching a virtual planning appeal or local plan examination we suggest:

- Only objecting to a virtual event if there are compelling reasons, otherwise embrace the 'new normal'.
- Start the liaison with the other parties early on document management, site visit and inquiry process.
- Plan where and how you are going to conduct your case.

When approaching a virtual Planning Court hearing:

- Bundles, bundles, bundles! If done properly, electronic bundling will ensure that remote hearings go smoothly and do not take any longer than in-person hearings.
- Review the latest court guidance.

In either forum, we suggest planning and testing a robust means of communication with your team.

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