

Introduction

Are you dissatisfied with the outcome of a Building Control procedure?

Our decisions are unbiased and made through the procedures within the Building Act and Building Regulations. However, where you are dissatisfied with the decision of the Building Control Department there is a right to apply for a determination, or appeal, to the Secretary of State under various Sections of the Building Act 1984. The options available to you are listed below.

Determinations (Section 16)

Where Building Control rejects your Full Plans application, or approves it with conditions, and you disagree with that decision, then you have the right to refer to the Secretary of State for a determination.

Before considering applying for a determination, you must accept that the particular requirement of the Building Regulations in question applies to your proposed building work and believe that your plans comply with it. The main points to bear in mind are:

- You can only use the determinations procedure if you have submitted a Full Plans application to the Local Authority for them to approve.
- Because determinations are tied to the "Full Plans" submission procedures relating to proposed work, you must apply for a determination to the Office

of the Deputy Prime Minister before the work is commenced in part or in whole.

- Your determination application must contain certain details and a fee. Further information can be sought from the ODPM website, or your Building Control Department.
- Once your application is accepted, all parties are consulted before the ODPM gives it careful consideration and gives you and the Local Authority a decision, i.e the determination.

If you proceed with the building work in the face of warnings from the Local Authority about the compliance of your work, and it is determined that your work does not comply with the Building Regulations, a Completion Certificate cannot be issued, and enforcement action may be taken requiring you to modify or demolish your defective work.

Appeals (Section 8, 9 & 39)

You may apply to the Local Authority to relax or dispense with a Building Regulations requirement where you believe that in the circumstances the requirements are too onerous or inappropriate to your plans or building work.

Before lodging an appeal you must accept that the particular requirement of the Building Regulations in question is applicable and that your plans or building works do not comply with the requirement in

part or whole. The main points to bear in mind are:

- An application to the Local Authority to relax or dispense with a requirement can be made after the deposit of a Building Notice or Full Plans application and at any time from before the building work starts, during construction, or after it has been completed.
- Your application to the Local Authority any subsequent appeal to the ODPM must make it clear whether you are seeking a relaxation or dispensation. You must also specify the particular requirement in question, and set out your case giving full justification.
- After you have made an application to the Local Authority, and the Local Authority has refused the relaxation or dispensation, you can consider your right of appeal to the ODPM. An appeal made against the Local Authority's decision must be made within one month of the date they let you know of the decision.
- Your appeal application to the ODPM does not attract a fee, but must contain certain details. Further information can be sought from the ODPM website or your Building Control Department.
- Once your appeal is accepted, the ODPM will consult all parties before giving it careful consideration and coming to a decision.

The requirements of the Building Regulations are primarily concerned with health and safety and are expressed in terms of what is reasonable, adequate or appropriate. Appealing against a refusal to grant a relaxation or a dispensation is therefore likely to be very difficult to argue unless very special circumstances exist.

You should not rely on the appeal process to deal with an unresolved matter which really should have been referred to the ODPM at an earlier stage as a determination. If your appeal is dismissed, the requirement will still apply and your building work will still not comply.

Contravention of Building Regulations (Section 36, 37 & 40 to 42)

If Building Control decide either during construction or on completion that a contravention has occurred, they have the power to issue an enforcement Notice requiring you to pull down, remove or alter building work that does not comply with the Building Regulations and can seek recourse to the Courts as necessary.

You can contest the enforcement Notice and have the right to appeal in the Magistrates' Court demonstrating your case for compliance as detailed in section 40. Alternatively you may obtain a report from a suitably qualified person to show how the works comply as detailed in section 37, with a view to persuading the Local Authority to withdraw the Notice. Both actions must be carried out within 28 days of receiving the enforcement Notice.

Contact Details

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Knowle
Sidmouth
Devon
EX10 8HL**

DX 48705 Sidmouth

Telephone:

**West Team – 01395 517578
East Team – 01395 517482**

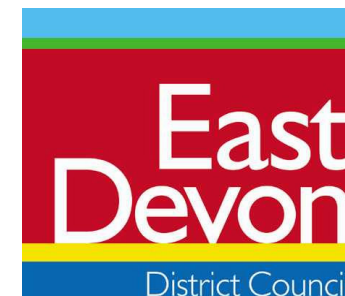
Email:

buildingcontrol@eastdevon.gov.uk

**NB: This leaflet can be
supplied in other formats**



Building Control



**Householders Guidance
Leaflet 6**

**Appeals and
Determinations**

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