

ENFORCEMENT NOTICE APPEAL (Online Version)

WARNING: The appeal *must* be received by the Inspectorate before the effective date of the local planning authority's enforcement notice.

APPEAL REFERENCE: **APP/X5210/C/13/2203616**

A. APPELLANT DETAILS

| | | | |
|--|--|---|-------------------------------------|
| Name | EASTLIGHT LTD EASTLIGHT LTD | | |
| Address | C/O INTRUST LTD 38 WIGMORE STREET LONDON | Phone no. | |
| | | Fax no. | |
| Postcode | W1V 2HA | E-mail | graham.murdoch@btconnect.com |
| Please confirm how you wish to correspond with us: | | Electronically, via the email address specified above | <input checked="" type="checkbox"/> |
| | | On paper, by post. | <input type="checkbox"/> |

B. AGENT DETAILS (IF ANY) FOR THE APPEAL

| | | | |
|--|--|---|-------------------------------------|
| Name | Murdoch Associates | | |
| Address | 16 South Road BISHOP'S STORTFORD Hertfordshire | Your reference | 4006/AP2A |
| | | Phone no. | +01279 (503616) |
| | | Fax no. | |
| Postcode | CM23 3JH | E-mail | graham.murdoch@btconnect.com |
| Please confirm how you wish to correspond with us: | | Electronically, via the email address specified above | <input checked="" type="checkbox"/> |
| | | On paper, by post. | <input type="checkbox"/> |

C. DETAILS OF THE APPEAL

| | | | |
|--|--------------------------|--|------------|
| Name of local planning authority (LPA) | London Borough of Camden | | |
| Date of issue of enforcement notice | 05 Jul 2013 | Reference number on the enforcement notice | EN/11/1014 |
| Effective date of enforcement notice | 16 Aug 2013 | | |

D. APPEAL SITE ADDRESS

Land affected (please give full address)

24-32 Kilburn High Road
LONDON

Postcode NW6 5UA

Grid Reference: Easting 05255283 Northing 01835232

1. Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? YES ☐ NO ☒

2. What is your/the appellant's interest in the land? owner ☒ tenant ☐ mortgagee ☐

If none of these apply did you/the appellant occupy the land under a written or oral licence BOTH on the date the enforcement notice was issued AND on the date of making this appeal? YES ☐ NO ☐

If "No", what is your/the appellant's involvement in the land?

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? YES ☐ NO ☒

Please tick which of the following grounds of appeal apply to your case and give the facts in support of each ground chosen.

☒ **(a) That planning permission should be granted for what is alleged in the notice.**

Section 174(2)(a) of the Town and Country Planning Act says "that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged".

** See separate documents **

☒ **(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.**

Section 174(2)(b) says "that those matters have not occurred".

** See separate documents **

☒ **(c) That there has not been a breach of planning control** (for example because permission has already been granted, or it is "permitted development").

Section 174(2)(c) says "that those matters (if they occurred) do not constitute a breach of planning control".

** See separate documents **

☒ **(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.**

Section 174(2)(d) says "that at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters".

Please note that if you choose ground (d) an inquiry will normally be necessary

** See separate documents **



(e) The notice was not properly served on everyone with an interest in the land.

Section 174(2)(e) says "that copies of the enforcement notice were not served as required by section 172".



(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.

Please state how you think the requirements should be varied.

Section 174(2)(f) says "that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach".

** See separate documents **



(g) That the time given to comply with the notice is too short.

Please state what you consider to be a reasonable compliance period, and why.

Section 174(2)(g) says "that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed".

** See separate documents **

F. CHOICE OF PROCEDURE

There are 3 possible procedures:- written representations, hearings and inquiries. You should consider carefully which method suits your circumstances before selecting your preferred option by ticking the box.

1. THE WRITTEN REPRESENTATIONS PROCEDURE _____ ☐

(for an explanation refer to the guidance leaflet).

Please answer the questions below.

- a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? YES ☐ NO ☐
- b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? YES ☐ NO ☐

If so, please explain below or on a separate sheet.

2. THE HEARING PROCEDURE _____ ☐

(for an explanation refer to the guidance leaflet).

Although you may indicate a preference for a hearing, the Inspectorate must also consider that your appeal is suitable for this procedure. You must give detailed reasons below or on a separate sheet why you think a hearing is necessary.

Please answer the question below

- a) Is there any further information relevant to the hearing which you need to tell us about? If so please explain below. YES ☐ NO ☐

3. THE INQUIRY PROCEDURE _____ ☒

(for an explanation refer to the guidance leaflet).

Although you may indicate a preference for an inquiry the Inspectorate must also consider that your appeal is suitable for this procedure. You must give detailed reasons below or on a separate sheet why you think an inquiry is necessary.

Careful consideration has been given to the PINS Guidance 02/2009 of April 2010. The criteria for written representations and hearings are not met because the evidence needs to be tested and questions need to be asked in such manner as is (according to the Guidance) inconsistent with the criteria for those forums.

Continued in Section L

Please answer the questions below

- a) How long do you estimate the inquiry will last?
(Note: We will take this into consideration, but please bear in mind that our estimate will also be informed by others' advice and our own assessment.)

No. of days

- b) How many witnesses do you intend to call?

No. of witnesses

- c) Is there any further information relevant to the inquiry which you need to tell us about? If so, please explain below.
Please continue on a separate sheet if necessary.

YES ☐ NO ☒

G. SENDING THE FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice?

YES ☐ NO ☒

IF **YES** PLEASE STATE

- a. the date of the relevant application

- b. the date of the LPA's decision (if any)

2. Are there any planning reasons why a fee should not be paid for this appeal?
If YES, please explain below

If No, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your enforcement notice.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us and these have not been decided, please give details, including our reference numbers.

YES ☐ NO ☒

I. CHECK SIGN AND DATE

Please tick ✓

- 1 I have completed all parts of the form.
- 2 I have attached a copy of the enforcement notice **and** plan to this form.
- 3 I have sent a copy of this form and any documents to the LPA



Date 14 August 2013

Name (in capitals) Murdoch Associates

On behalf of (if applicable) EASTLIGHT LTD EASTLIGHT LTD

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 1998. Further information about our Data Protection policy can be found in the guidance leaflet.

J. NOW SEND

- **Send a copy to the LPA** • **You may wish to keep a copy of the form for your records**

You should ensure that you send a copy of the completed appeal form and a copy of any supporting documents you are sending to us to the LPA.

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

K. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please ensure that all supporting documentation is received by the Planning Inspectorate before the effective date on the enforcement notice. If forwarding the documents by email, please send to **appeals@pins.gsi.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to PO Box 326, Bristol, BS99 7XF.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number:

APP/X5210/C/13/2203616

Please ensure that a copy of your appeal form and any supporting documents are sent to the local planning authority.

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*****
* The Documents Listed Below Will Follow By Post *
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===== GROUNDS AND FACTS =====
** Grounds & facts
** Grounds & facts
** Grounds & facts
** Grounds & facts
** Grounds & facts
** Grounds & facts
===== OTHER DOCUMENTS =====
** Appeal Form - Enforcement Notice + Plan -
** Appeal Form - Plan -
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Reasons for Inquiry (cont'd)

The most appropriate procedure would be a local inquiry, as

1. the Appellant (and most likely the LPA) needs to be represented by an advocate, because material facts and/or matters of expert opinion are in dispute and formal cross-examination of witnesses is required. This is pertinent to, inter alia, the Ground A and Ground D appeals. Counsel has been instructed.
2. legal submissions will need to be made in support of, inter alia, the Ground B and Ground C appeals. This is further detailed in the Grounds of Appeal. Counsel has been instructed.
3. evidence will need to be heard under oath. In support of the Ground D appeal, a number of witnesses will be giving factual evidence about how long the alleged unauthorised use has been taking place.
4. the issues are complex and likely to need evidence to be given by expert witnesses. This is pertinent to, inter alia, the Ground A and Ground C appeals.