

# The Planning Inspectorate

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(Date received)  
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## LISTED BUILDING/CONSERVATION AREA 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/F/14/2225879**

### A. APPELLANT DETAILS

Name	Mr Kunal Tulsiani		
Address	6 Lincoln's Inn Fields	Phone no.	
	LONDON	Fax no.	
Postcode	WC2A 3BP	E-mail	kate.falconerhall@montagu-evans.co.uk
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	Miss Kate Falconer Hall		
Address	Montague Evans, Red Wolf House	Your reference	6 Lincoln's Inn Fields
	5-10 Bolton Street	Phone no.	02073127466
	LONDON	Fax no.	
Postcode	W1J 8BA	E-mail	kate.falconerhall@montagu-evans.co.uk
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 the LPA	London Borough of Camden
Date of issue of enforcement notice	11 Aug 2014
Effective date of enforcement notice	22 Sep 2014
Reference number on the enforcement notice	EN12/0375

## D. APPEAL SITE ADDRESS

Building affected (please give full address)

6 Lincoln\'s Inn Fields  
LONDON

Postcode WC2A 3BP

Grid Reference: Easting 05306689

Northing 01814604

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 building? owner  tenant  mortgagee

If none of those apply, did you/the appellant occupy the building 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 building?

## E. THE BUILDING

	Please tick ✓		
	Grade I	Grade II*	Grade II
If the building is listed, please indicate the grade of the building	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Has a grant been made under sections 3A or 4 of the Historic Buildings and Ancient Monuments Act 1953?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the appeal relate to a Conservation Area Enforcement Notice?	YES <input type="checkbox"/>	NO <input type="checkbox"/>	<input checked="" type="checkbox"/>

## F. 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 the building is not of a special or architectural or historic interest.**

That is to say that although the building is listed, it is not outstanding and worthy of preservation. This ground, in effect, invites the Secretary of State to remove the building from the statutory list. In the case of a conservation area enforcement notice, ground (a) reads "that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance or the conservation area in which it is situated"; (see SI 1990 No 1519 reg 12 and schedule 3).

**(b) That the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred.**

That what is alleged in the notice has not taken place as a matter of fact.

**(c) That those matters (if they occurred) do not constitute such a contravention.**

This ground argues that listed building consent is not needed – for example, because the works do not affect the character of the listed building, or because the works concern a building which is not part of a listing.

\*\* See separate documents \*\*

## F. GROUNDS AND FACTS (continued)

- (d) That works to the building were urgently necessary in the interests of safety or health or for the preservation of the building, that it was not practicable to secure safety or health or, as the case may be, the preservation of the building by works of repair or works for affording temporary support or shelter, and that the works carried out were limited to the minimum measures immediately necessary.

All 3 test must be met. It may be argued here, for example, that the works in question were urgently necessary because parts of the building were unsafe.

- (e) That listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted.

This ground covers any arguments on the merits of the case.

\*\* See separate documents \*\*

- (f) That copies of the notice were not served as required by section 38(4).

This is the same as ground (e) in a section 174 enforcement appeal – see the booklet.

**If you choose this ground you cannot also choose (i), (j) or (k)**

- (g) Except in relation to such a requirement as is mentioned in section 38(2)(b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out.

An appeal on this ground will claim that the steps said to be required for restoring the building to its former state are excessive.

## F. GROUNDS AND FACTS (continued)

- (h) That the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed.**

This refers to the compliance period stated in the notice. If you claim that it is too short, please state what you consider to be a reasonable period for compliance.

\*\* See separate documents \*\*

**If you choose this ground you cannot also choose (g), (j) or (k)**

- (i) That the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose.**

An appeal on this ground would claim that the steps said to be required by the notice would not restore the character of the building to its former state. This is different from an appeal on ground (g) which would claim that the steps required are excessive. This ground of appeal is not available for appeals against conservation area enforcement notices alleging the demolition of an unlisted building in a conservation area.

**If you choose this ground you cannot also choose (g), (i) or (k)**

- (j) That the steps to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building.**

Where restoration of the building to its former state has not been required, the works required go beyond what is necessary to alleviate the effect of the work done. Section 38(2)(b) enables an authority which considers that restoration of the building to its former state would not be reasonably practicable or would be undesirable, to specify steps "for executing such further works specified in the notice as they consider necessary to alleviate the effect of the works which were carried out without listed building consent".

Please state how the requirements should be varied.

\*\* See separate documents \*\*

**If you choose this ground you cannot also choose (g), (i) or (j)**

- (k) That the steps required to be taken by virtue of section 38(2)(c) exceed what is necessary to bring the building to the state in which it would have been if the terms and conditions of the listed building consent had been complied with.**

As above, but relating to cases involving a breach of condition attached to a grant of listed building consent. Section 38(2)(c) enables an authority to specify steps "for bringing the building to the state in which it would have been if the terms and conditions of any listed building consent which had been granted for the works had been complied with".

## G. 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.

We consider the reasons for this below with reference to the criteria headings as set out in Annex G of PINS guidance Procedural Guidance - Enforcement appeals- England (6 March 2014). Not all apply and the relevant are addressed below.

*Continued in Section L*

**Please answer the questions below**

- a) How long do you estimate the inquiry will last? No. of days   
(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.)
- 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. YES  NO

Please continue on a separate sheet if necessary.

**H. OTHER APPEALS**

Have you made any other appeals to the Secretary of State on this, or nearby land, for example, against a refusal of planning permission? YES  NO

If yes, please give details, including our reference number, if known.

A previous version of the Enforcement Notice ref EN 12/0375 was served on 20 June 2014.

*Continued in Section L*

**I. CHECK SIGN AND DATE**

- Please tick ✓
- 1 I have filled in 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

Name (in capitals)

On behalf of (if applicable)

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 and 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/F/14/2225879**

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 Were Uploaded With The Appeal Form *
*****
===== GROUND AND FACTS =====
TITLE:          Grounds & facts
DESCRIPTION:    6 LIF Grounds of Appeal
FILENAME:       6 Lincoln's Inn Fields  PINS Letter Grounds of Appeal.pdf

TITLE:          Grounds & facts
DESCRIPTION:    6 LIF Grounds of Appeal
FILENAME:       6 Lincoln's Inn Fields  PINS Letter Grounds of Appeal.pdf

TITLE:          Grounds & facts
DESCRIPTION:    6 LIF Grounds of Appeal
FILENAME:       6 Lincoln's Inn Fields  PINS Letter Grounds of Appeal.pdf

TITLE:          Grounds & facts
DESCRIPTION:    6 LIF Grounds of Appeal
FILENAME:       6 Lincoln's Inn Fields  PINS Letter Grounds of Appeal.pdf

===== OTHER DOCUMENTS =====
TITLE:          Appeal Form - Enforcement Notice + Plan -
DESCRIPTION:    Appeal Form - Enforcement Notice + Plan - Enforcement Notice:
FILENAME:       6 Lincoln's Inn Fields Full Enforcement Notice.pdf

TITLE:          Appeal Form - Plan -
DESCRIPTION:    Appeal Form - Plan - Plan
FILENAME:       6 Lincoln's Inn Fields Site Location Plan.pdf
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## L. SUPPLEMENTARY SHEET

### Reasons for inquiry (continued)

- There is a need for the evidence to be tested through formal questioning by an advocate

There is a requirement for detailed technical evidence to be tested by cross examination, in order to explore the Council's reasons behind issuing the Listed Building Enforcement Notice and their understanding of the relevant documentation.

- The issues are complex

The issues are detailed and subjective, and have been the subject of negotiation and discussion between the Council and the Appellant over a number of years. An Inquiry is the only method by which this case can be heard.

We envisage that it will take more than one day to cover all the relevant points of the appeal through the Inquiry procedure.

- In an enforcement appeal, the alleged breach, or the requirements of the notice, are unusual and particularly contentious

The Listed Building Enforcement Notice (LPA Ref. EN12/0375) issued by the Council concern works to a Grade II listed building. There is a disagreement between the appellant and the Council which cannot be addressed effectively through written representations or at a hearing.

Following the criteria set out within Annex G of Procedural Guidance - Enforcement appeals- England (6 March 2014) we conclude that an Inquiry would be the most appropriate form of appeal.

## L. SUPPLEMENTARY SHEET

### Other Appeals (continued)

An Appeal (PINS ref APP/X5210/F/14/2223071) was submitted on 31 July 2014 against the Enforcement Notice of 20 June.  
The Enforcement Notice of 20 June was withdrawn by the London Borough of Camden on 11 August and the revised, current, Notice was issued on 11 August 2014.  
The Appeal (PINS ref APP/X5210/F/14/2223071) was then withdrawn by the Planning Inspectorate.