

## The Planning Inspectorate

### ENFORCEMENT NOTICE APPEAL FORM (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/18/3219021**

#### A. APPELLANT DETAILS

Name

. . .

Company/Group Name

CTIL and Telefonica UK Ltd

Address

Building 1330 The Exchange  
Arlington Business Park  
Theale  
RG7 4SA

Preferred contact method

Email  Post

#### A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice?

Yes  No

#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes  No

Name

Mr Ian Waterson

Company/Group Name

Town Planning Solutions Ltd

Address

3 Croft Close  
Bomere Heath  
SHREWSBURY  
Shropshire  
SY4 3PZ

Phone number

07988876382

Email

ian.waterson@town-planning-solutions.co.uk

Your reference

CTIL-206383 379 Kentish Town Rd

Preferred contact method

Email  Post

### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

London Borough of Camden

LPA reference number (if applicable)

EN18/0231

Date of issue of enforcement notice

15/11/2018

Effective date of enforcement notice

27/12/2018

### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes

No



Does the appeal relate to an existing property?

Yes

No



Address

379 Kentish Town Road  
London  
NW5 2TJ

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



What is your/the appellant's interest in the land/building?

Owner



Tenant



Mortgagee



None of the above



Did you/the appellant occupy the land/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



What is your/the appellant's involvement with the land/building?

Owners and operators of the rooftop electronic communications radio base station that is the subject of the LPA's enforcement notice

### 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



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



The facts are set out in

the box below

Planning permission should be granted for the development carried out, for the following reasons:

1. Telefónica UK Limited (trading as O2) has entered into an agreement with Vodafone Ltd pursuant to which the two companies jointly operate and manage their mobile networks across the UK. These arrangements, overseen and managed by Cornerstone Telecommunications Infrastructure Ltd (CTIL) a joint-venture company owned by these two electronic communications code operators, have allowed both organisations to pool their basic network infrastructure, running a shared single-grid 4G and two

independent, 2G and 3G nationwide networks; thereby maximising the opportunities to consolidate the number of radio base stations and significantly reduce the environmental impact of network development in accordance with long established Government policy.

2. O2 and Vodafone are both Ofcom licensed Electronic Communications Code Operators, and there is a demonstrable need for the development carried out at the enforcement notice site to meet the operators' Spectrum Licence obligations. The shared rooftop radio base station at the enforcement notice site was installed in an emergency following the forced removal of the operators' previous shared installation on the rooftop of Linton House, 39-51 Highgate Road, Kentish Town, London NW5 1RS. This installation which the operators wish to retain permanently has enabled the two operators to continue to provide demonstrably necessary replacement 2G, 3G and 4G and in the future 5G mobile electronic communications services to this part of the London Borough of Camden in the public interest.

3. All reasonable steps have been taken to minimise the visual impact of the development on the building and surrounding area having regard to the technical, operational and legislative requirements that applied in this case. If required the operators are willing to fully screen the installation from public view by erecting colour-coded, fibreglass (GRP) cladding around the rooftop radio base station (see ground (f) appeal, below).

4. The development carried out is an appropriate and acceptable form of development on an unprotected rooftop, having regard to the specific locational requirements for a replacement site. It accords with the provisions of the Development Plan and other material considerations including, Government planning policy in the NPPF and the Code of Best Practice on Mobile Network Development in England (2016).

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

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

(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.

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

The facts are set out in

the box below

1. CTIL and Telefónica UK Ltd (via GVA an approved subcontractor to NET, CTIL's acquisition agent for this replacement cell) applied for and were refused planning permission to retain the shared rooftop radio base station at the enforcement notice site on 29 October 2018 (LPA ref 2018/2336/P). The LPA's decision notice refusing planning permission also gave formal written notice of 'enforcement action to be taken'. The enforcement notice was issued less than one month later by letter dated 15 November 2018.

However, at 19 December 2018, the date of submission of this appeal, neither CTIL nor Telefónica UK Ltd (nor GVA, or Vodafone Ltd for that matter) had been served with the Enforcement Notice. CTIL, Telefónica UK Ltd and Vodafone Ltd as operators and owners of the installed rooftop radio base station at 379 Kentish Town Road, against which the enforcement notice has been served, all have a material interest in the development and should have been served with the enforcement notice.

It is a requirement that an enforcement notice is served on anyone with an interest in the land. In the case of companies, section 329(1)(d) of the Town and Country Planning Act, Service of Notices, states it is a requirement that in the case of an incorporated company or body, notice is served 'by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter, or by the recorded delivery service, addressed to the secretary or clerk of the company or body at that office'. No notices have been sent to the companies registered or principal offices.

2. The right to appeal the enforcement notice contained in the Annex to the Enforcement Notice Explanatory Note is a requirement of Regulation 5 of the Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002. The notice served by the LPA with the Enforcement Notice is defective. It gives Thursday November 27th (no year given) as the date the enforcement notice comes into effect.

3. Section 43 Town and Country Planning Act requires local planning authorities to keep a Register of Enforcement Notices and at paragraph 8 it is a requirement that: 'The information prescribed in paragraphs (1), (2) and (3) [that is, the address, date of service, alleged breach etc.] must be entered in the enforcement register as soon as practicable and in any event within 14 days of the occurrence to which it relates, and information must be supplied under paragraph (7) so that entries may be made within that period of 14 days'. A search of the LPA's online Register of Enforcement Notices on 19 December 2018, the date of submission of this enforcement appeal, states that enforcement action at 375 Kentish Town Road is informal and that formal enforcement action has yet to be authorised at this address.

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

The facts are set out in

the box below

If planning permission cannot be granted for the development as carried out, as is noted under the ground (a) appeal, the complete removal of the rooftop radio base station is unnecessary and lesser steps would overcome the objections to the current installation. The installation of colour-coded GRP screening, which would completely hide the rooftop radio base station from public view, would overcome any objection to the development. Such screening has been found by LPAs and Inspectors elsewhere to provide a wholly acceptable solution to the installation of rooftop radio base stations including sites in conservation areas and on listed buildings. The enforcement notice site is neither in a conservation area nor on a listed building.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The facts are set out in

the box below

The time period specified for complying with the enforcement notice is too short. The operators have carried out a thorough search for an alternative site for this demonstrably necessary development. RF coverage plots demonstrate this site is necessary to provide electronic communications services to this very busy part of Camden borough for both O2 and Vodafone, in the public interest. It is considered it would take a minimum of 12 months to: identify a suitable alternative replacement site; obtain permission from the landowner and the LPA for its development; build and commission the replacement radio base station; and then remove the existing installation. Having regard to the time already spent searching for a suitable alternative site, the specified period in the enforcement notice should be changed to 12 months before this site is to be removed - that is, before the cell becomes unserviceable. This is 6 months less than the time that is granted planning permission by the GPDO for the installation of electronic communications apparatus in an emergency to replace an unserviceable site, without the need for a prior approval or planning application to the LPA. If less additional time is to be granted by the Inspector, the operators require a minimum of 6 months to allow for a decommissioning survey to be carried out, road closures and parking to be agreed and for the roof top radio base station to be removed and the site restored to its former condition.

## F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(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

2. Hearing

3. Inquiry

## G. 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

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? Yes  No

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 which have not yet been decided? Yes  No

## I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

[see 'Appeal Documents' section](#)

## J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

**Signature**

**Date**

**Name**

**On behalf of**

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 2018. Further information about our Data Protection policy can be found on our website under Privacy Statement.

## **K. NOW SEND**

### **Send a copy to the LPA**

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:  
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from 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.

**You may wish to keep a copy of the completed form for your records.**

## L. APPEAL DOCUMENTS

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

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. 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 Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

**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.

### The documents listed below were uploaded with this form:

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 01. The Enforcement Notice.  
**File name:** Enforcement Notice.pdf

**Completed by** MR IAN WATERSON

**Date** 19/12/2018 15:08:47