



# The Planning Inspectorate

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[www.gov.uk/planning-inspectorate](http://www.gov.uk/planning-inspectorate)

Geri Gohin  
Development Management  
2nd Floor, 5  
Pancras Square  
London  
N1C 4AG

Your Ref: EN19/1001  
Our Ref: APP/X5210/C/21/3286609  
Further appeal references at foot of letter

25 November 2021

Dear Ms Gohin,

Town and Country Planning Act 1990  
Appeals by JCDcaux UK Limited, IN FOCUS PUBLIC NETWORKS LIMITED  
Site Address: Infocus Telephone Kiosk on pavement outside 196-199  
Tottenham Court Road, London, W1T 7JE

I have received Enforcement Notice Appeal forms and documents for this site. I am the case officer, if you have any questions, please contact me.

I have checked the papers and confirm that the appeal(s) is valid. If I later find out that this is not the case, I will write to you again.

The procedure and starting date

The appellant(s) has requested the Inquiry procedure. We have applied the criteria and considered all representations received, including the appellant(s) preferred choice. We consider that the Inquiry procedure is suitable and we intend to determine this appeal by this procedure.

Any evidence supporting a claim for use has to show a continuous period of use for the relevant 4 or 10 year period. The onus of proof is on an appellant(s). The test to be achieved is 'on the balance of probability'.

The appeal(s) is proceeding by way of Inquiry as:

- evidence is likely to require testing through formal questioning;
- evidence may need to be given on oath.

An inquiry will allow for investigative questioning and formal testing of evidence under oath by cross-examination, for example, where witnesses have submitted factual evidence about how long the alleged unauthorised use has been taking place.

You must supply a list of (and it would be helpful if you supplied copies of) all factual written information you intend to rely on with your statement of case. This can include documents

such as:

- tenancy agreements;
- utility bills;
- council tax bills;
- receipts for work and materials;
- written testimonies;
- sworn affidavits.

The appeal(s) procedure will remain under review, as normal, whilst in progress.

The date of this letter is the starting date for the appeal(s). The timetable for the appeal(s) begins from this date.

Sending documents to us and looking at the appeal(s)

If you post your documents, please:

- send one copy of the questionnaire and its supporting documents;
- send two copies of other documents as specified below;
- put the full appeal reference number(s) on each copy.

If you email them, please quote the full appeal reference number. Guidance on communicating with us electronically can be found at: <https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>.

You can look at this case through GOV.UK <https://www.gov.uk/appeal-planning-inspectorate> by typing in the appeal reference number and clicking on "Search for Cases".

Grounds of appeal

We accept that the appeal(s) should proceed on ground(s) (b), (c), (d) as set out at Section 174(2) of the 1990 Act.

Keeping to the timetable

You must keep to the timetable set out below and make sure that you send us the relevant documents within these deadlines. This will mean that we can deal with the appeal(s) promptly and fairly. If you do not send us the relevant documents in time, the Inspector will not normally look at them and we will return them to you unless there are exceptional reasons for accepting them. You must note the details of the following timetable because we will not send any reminders.

You must send a copy of your representations (except the questionnaire) to all those, other than the appellant(s), on whom a copy of the enforcement notice was served.

We will be sending out a form later in the process regarding witness and estimated timings. In order to assist in the smooth running of the inquiry we would be very grateful if you would fill it out and return it within the deadline given.

The following documents must be sent within this timetable.

By 09 December 2021

You must notify anyone other than the appellant(s) who was served with the enforcement notice, occupiers of properties near the appeal site and any other persons who, in your opinion, are affected by the breach of planning control, that the appeal(s) has been made. You must include:

- a) a description of the alleged breach of planning control;
- b) a statement of your reasons for issuing the notice(s);
- c) the appellant's grounds of appeal against the notice(s);
- d) an invitation to interested persons to make their views known by writing to the case officer at the above address, quoting our reference number(s). Their representations must be sent within 6 weeks of the starting date, by 06 January 2022. If comments are submitted after the deadline, the Inspector will not normally look at them and they will be returned. Wherever possible they must submit three copies of their letter and you should give warning that their views will be disclosed to the parties to the appeal(s) unless the representations are withdrawn before the 6 weeks deadline;
- e) that the Planning Inspectorate will not acknowledge representations. We will, however, ensure that letters received by the deadline are passed on to the Inspector dealing with the appeal(s);
- f) they can get a copy of our guidance booklet free of charge from you, or on your website, or on GOV.UK (<https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal>);
- g) when and where the appeal documents will be available for inspection; and
- h) that the decision will be published on GOV.UK.

You must provide the following documents to us:

- a) a true copy of the enforcement notice(s) including the statement of reasons why you considered it expedient to issue the notice(s); An electronic version of the enforcement notice (in Word format) must be sent to the email address in this letter. Please remember to include the full appeal reference number.
- b) a true copy of the plan attached to the enforcement notice(s), endorsed to that effect - if the original plan was coloured, the copy should be coloured identically;
- c) the names and address of all persons on whom a copy of the notice(s) was served, under provisions of S172(2) of the 1990 Act.

If you do not provide these documents, the Secretary of State will consider exercising powers under S176(3)(b) of the 1990 Act to quash the notice(s).

You must also make sure that the appellant(s) and I are sent a copy of your completed appeal questionnaire and supporting documents, including the relevant development plan

policies, a copy of your notification letter and a list of those notified. You have the opportunity to state your preferred choice of procedure by answering Question 1 of the appeal questionnaire.

By 06 January 2022

Please send me 2 copies of your statement giving full details of the case which you will put forward at the inquiry including a list of any documents, maps or plans you intend to refer to or use in evidence. The appellant(s) may require you to send them any such document (or relevant part of such document). I will send a copy of your statement to the appellant(s) and send you a copy of their statement. Your statement should include your response to each ground of appeal pleaded by the appellant(s).

If you wish to rely on your reasons for issuing the notice(s) in response to any particular ground of appeal, please say so in your statement.

If the appeal includes ground (a) and the correct fee is received in time or is exempt from the payment of fees (refer to the Fees paragraph of this letter) your statement may need to include any points concerning the planning merits of the alleged breach that you want the Inspector to take into account. You should also say whether you would be prepared to grant planning permission (and give any conditions you would want to impose).

You must allow anyone who wants to inspect the appeal documents a reasonable opportunity to do so. Your statement must say when and where this can be done.

By 27 January 2022

You and the appellant(s) must submit 2 copies of any final comments you and they have on each other's statement and on any comments from interested people or organisations. You must not send your final comments instead of, or to add to your statement. No new evidence is allowed at this stage. I will send you a copy of the appellant's final comments at the appropriate time.

No later than 4 weeks before the inquiry

You and the appellant(s) must send me 2 copies of your proof of evidence (and a written summary if the proof is over 1500 words in length). A 'proof of evidence' is a written statement that you, the appellant(s) or a witness wishes the Inspector to take into account at the inquiry. Any summary should reflect the contents of the proof and should not include new evidence. When a summary is provided, only that will be read at the inquiry.

The appellant(s) must also send a copy of the agreed statement of common ground, listing all matters agreed between you and them. This should include basic facts such as the site description, area, planning history, relevant planning policies, and all other matters of agreement relating to the appeal(s). The Inspector may question the information in the statement. Further guidance on producing statements of common ground (and a model form) can be found at: <https://www.gov.uk/government/publications/statement-of-common-ground>.

If you propose to give, or call another person(s) to give evidence at the inquiry, you must also send us in writing an estimate of the time required to present all their evidence and

confirmation of the number of witnesses you intend to call.

#### Planning obligations - section 106 agreements

A planning obligation, often referred to as a 'section 106 agreement', is either a legal agreement made between the LPA and a person 'interested in the land' or a legally binding undertaking signed unilaterally by a person 'interested in the land'. If you intend to submit a planning obligation you must read the guidance, which is available from: <https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>.

A final draft, agreed by all parties to it, must be submitted to me no later than 10 days before the inquiry opens.

#### Withdrawing the appeal(s)

If you hear that the appeal(s) is to be withdrawn, please telephone me immediately. If I receive written confirmation of this from the appellant(s), I will write to you.

#### Costs

The appellant(s) has been directed to GOV.UK for further information regarding costs – <http://planningguidance.communities.gov.uk/blog/guidance/appeals/>. You should also be aware that costs may be awarded to either party.

Additionally, a Planning Inspector or the Secretary of State may on their own initiative make an award of costs, in full or in part, if they judge that a party has behaved unreasonably resulting in unnecessary appeal expense.

#### Further information

Further information about the appeals process can be accessed at - <https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>. I recommend that you read the relevant guidance.

Yours sincerely,

***Alice Maurice***

Alice Maurice

Linked cases: APP/X5210/C/21/3286714