

**CEO DECISION – CD 134**

**Title: 628 Western Avenue Planning Appeal – Public Inquiry costs**

**Executive Summary:**

On the 10 July 2019, OPDC's Planning Committee resolved to refuse planning permission for a hotel-led mixed-use development at 628 Western Avenue in Park Royal, in line with officer recommendation (Ref:19/0006/FUMOPDC). The planning application was found to be contrary to the draft OPDC Local Plan and London Plan, principally on land use and heritage grounds. A formal decision was issued on 12 July 2019.

On 20 December 2019, the applicant appealed this decision and on 22 January 2020 the Planning Inspectorate (PINS) determined that this case will be decided by way of a Public Inquiry. As is normal practice in public inquiries, leading Counsel and specialist consultant input is required to support staff in presenting the OPDC case, as there is a significant risk that the draft Local Plan and London Plan would be undermined and that OPDC's planning interests would not be properly taken into account by the Inspector when he considers the case; thereby impacting OPDC and the Mayor's ability to implement Mayoral and local planning policies. OPDC could also incur substantial costs in the event of a successful application for costs award by the appellant, should it be found to have acted unreasonably or unlawfully, for example by not substantiating its reasons for refusal.

**Decision:**

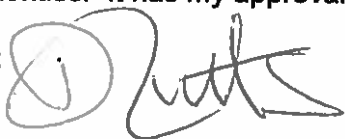
That the Chief Executive Officer approves expenditure of up to £150,000 on the forthcoming public inquiry on the 628 Western Avenue appeal as follows:

1. Up to £85,000 for leading Counsel representation at the Inquiry;
2. Up to £20,000 for external lawyers to handle Section 106 matters; and
3. Up to £45,000 for expert witnesses, admin and external venue hire (if required).

**CEO AUTHORISATION**


I have reviewed the request and am satisfied it is correct and consistent with the OPDC business plan and priorities. It has my approval.

Name:



Position: Chief Executive Officer

Signature:



Date:

06/02/20

## PART I - NON-CONFIDENTIAL FACTS AND ADVICE

### Decision required – supporting report

#### 1 Introduction and background

- 1.1 On the 10 July 2019, OPDC's Planning Committee resolved to refuse planning permission for a hotel-led mixed-use development at 628 Western Avenue in Park Royal, in line with officer recommendation. The planning application proposed: *"Demolition of the existing building and redevelopment to provide a ground plus ten storey building and two levels of basement to provide flexible industrial uses (Use Class B2/B8) over ground and first floor, offices (Use Class B1a) at second floor and hotel (Use Class C1) uses on floors three to ten, and associated car parking, servicing and all necessary enabling works."*
- 1.2 OPDC issued the final decision on 12 July 2019 with the following reasons for refusal:
- 1) *The proposed development would result in the inappropriate introduction of substantial town centre uses, namely a hotel (Use Class C1) and offices (Use Class B1a), within a designated Strategic Industrial Location, resulting in detrimental harm to the supply, function and operation of land protected and required for industrial, logistics and related uses that support the functioning of London's economy. Accordingly, the application is contrary to Policy 2.17 of the London Plan (2016); Policy 3.3 of the Ealing Development (Core) Strategy DPD (2012); Policies E4 and E5 of the draft London Plan (2018) and Policies SP5 and E1 of the Second Revised Draft Regulation 19 (2) OPDC Local Plan (2018).*
  - 2) *The proposed building, by way of its excessive height, scale and massing, would result in less than substantial harm to the setting and significance of designated heritage assets, namely the Grade II Listed Park Royal London Underground Station and the Hanger Hill (Haymills) Estate Conservation Area, without providing sufficient public benefit to outweigh this less than substantial harm, failing to preserve or enhance the special architectural and historic significance of these designated heritage assets contrary to Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended); Section 16 of the National Planning Policy Framework (2019); Policies 7.4, 7.7, and 7.8 of the London Plan (2016); Policies 7C and 7.7 of the Ealing Development Management DPD (2013) and Policies D4 and D8 of the Second Revised Draft Regulation 19 (2) OPDC Local Plan (2018).*
  - 3) *The proposed development, by way of the introduction of substantial town centre uses outside Park Royal Centre, would undermine the delivery of the placemaking objectives for the designated neighbourhood centre and in particular the creation of a more vibrant neighbourhood centre providing a diverse range of services and amenities for the wider industrial estate. Equally, the introduction of these uses within SIL would equally undermine the strategic vision for the Park Royal Industrial Estate as a place for industry and which should be protected, strengthened and intensified. Accordingly, the proposal is contrary to Policy 2.13 and Annex A (26) of the Mayor's London Plan 2016, the vision for Park Royal in Chapter 2 (para 2.1.59) of the draft New London Plan (2018), the Vision and Principle L2 of the Old Oak and Park Royal OAPF, the Spatial Vision and Narrative 7, Vision for Place P4 and P6 and Policies SP6 and P6 of the Second Revised Draft Regulation 19 (2) OPDC Local Plan (2018).*
- 1.3 The applicant lodged an appeal against this decision, requesting the Inquiry procedure, as opposed to written representations or hearing. Despite OPDC requesting the written representation procedure, the Planning Inspectorate (PINS) subsequently agreed to deal with the case by way of a public inquiry, commencing on 28 April 2020. The Inquiry is scheduled to take 6 days.
- 1.4 As local planning authority, OPDC are expected to provide the inquiry venue (which meets PINS specific requirements). Facilities Management have been contacted at City Hall to discuss

Committee Room availability; however, if this is not possible, OPDC will need to source and cover the costs of a suitable external venue.

- 1.5 OPDC is a principal party to the appeal and officers will be required to prepare and present detailed technical information and opinions; most notably in respect of industrial land supply (to support reason for refusal number 1) and heritage matters (to support reason for refusal number 2). Morag Ellis QC of Francis Taylor Building will be instructed to represent OPDC at the public inquiry, as well as potentially specialist input on heritage and the sequential approach to the location of town centre uses (to support reason for refusal number 3).
- 1.6 A timetable for the public inquiry has been set by PINS as follows
  - **26 February 2020:** Submit Statement of Case to PINS
  - **31 March 2020:** Submit Proofs of Evidence
  - **28 April 2020:** Public inquiry opens and sits for 6 days (estimated)
- 1.7 Counsel fees are estimated to be up to £85,000 + VAT based on the following breakdown:
  - Brief fee: £45,000
  - Daily Refresher of up to £5,000 per day for 5 subsequent days (assuming inquiry runs to time): £25,000
  - Pre-inquiry preparation (including conferences, preparation, drafting/amending of proofs of evidence): £20,000
- 1.8 External lawyers will need to work on behalf of OPDC on the S106 agreement that will need to be completed prior to the closing of the inquiry, to ensure that appropriate mitigation is secured in the event that the Planning Inspector is minded to allow the appeal. Their costs are estimated to be up to £20,000. OPDC will seek to recover these costs from the applicant, but this is not guaranteed.
- 1.9 A further £40,000 will be required to cover the costs of external expert witness(es) to potentially give evidence in respect of heritage matters and town centre uses, and £5,000 for administration costs such as printing of appeal documents and possible venue hire (in the event City Hall is unavailable). Where possible and subject to time constraints, expert witnesses will be procured from a TfL Framework in accordance with the OPDC Contracts and Funding Code.
- 1.10 It is therefore requested that the CEO approves expenditure of up to £150,000, comprising:
  1. £85,000 for leading Counsel representation at the Inquiry;
  2. £20,000 for external lawyers to deal with Section 106 matters; and
  3. £45,000 to procure expert witnesses, admin and external venue hire (if required).
- 1.11 These figures are based on fee quotes from a barrister chambers and law firm from TfL's panel of external planning lawyers. These figures are estimates and may increase depending on the complexities of the case and evidence of other parties that may need to be responded to, which would require further approval.
- 1.12 Based on the appeal timetable, and the actions that need to be completed leading up the inquiry, it is estimated that £60,000 of the above costs will be incurred in the remainder of the 2019/20 financial year and £90,000 will be incurred in the 2020/21 financial year.
- 2 Objectives and expected outcomes**
  - 2.1 To enable preparation for, and presentation of a robust case at the forthcoming Public Inquiry in April 2020 in order to ensure that OPDC's planning policies are properly taken into account by the Inspector when he considers the case. Leading Counsel is required in order to enable cross-examination of the appellant's witnesses, and external lawyers are required to prepare a Section

106 agreement to ensure that appropriate mitigation is secured in the event that the Planning Inspector is minded to allow the appeal.

### **3 Equality comments**

- 3.1 Under section 149 of the Equality Act 2010, in making these decisions “due regard” must be had to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who have a relevant protected characteristic and those who do not. Protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation (and marriage or civil partnership status for the purpose of the duty to eliminate unlawful discrimination only).
- 3.2 This duty under section 149 was met in making the recommendation to Planning Committee, which had regard to planning policies which have been subject to an Integrated Impact Assessment incorporating Equalities Impact Assessment in accordance with the requirements of the Equality Act. The Planning Committee report also considered the full range of social impacts arising from the scheme including the provision of accessible hotel accommodation. The procurement process will comply with the Equality Act and set out the relevant requirements to any successful consultant/legal representation.

### **4 Other considerations**

- 4.1 If OPDC’s decision is not robustly presented there is a very real risk that the draft Local Plan and London Plan would be undermined and OPDC’s planning interests would not be properly taken into account by the Inspector when he considers the case, thereby impacting OPDC and the Mayor’s ability to carry out their statutory duties. OPDC could also incur very significant costs (in the event of a successful application for costs award by the appellant) should it be found to have acted unreasonably or unlawfully, for example by not substantiating its reasons for refusal.

### **5 Financial comments**

- 5.1 The expenditure requested in this decision for up to £150,000 will be funded from the Planning Directorate Budget in the first instance. Any balance unfunded will be met from the Corporate budget.

### **6 Legal comments**

- 7.1 The report above indicates that:
- i. the decision requested of the CEO falls within OPDC’s objective of securing the regeneration of the Old Oak and Park Royal area and its powers to do anything it considers appropriate for the purpose of its objects or purposes incidental to those purposes, as set out in the Localism Act 2011; and
  - ii. in formulating the proposals, officers have given due regard to OPDC’s duty under section 149 of the Equalities Act 2010 to:
    - (a) pay due regard to the principle that there should be equality of opportunity for all people;
    - (b) consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and
    - (c) consult with appropriate bodies.
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- 7.2 In taking the decisions requested, the CEO must have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other

conduct prohibited by the Equality Act 2010 and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the director should have particular regard to section 3 (above) of this report.

- 7.3 Officers must ensure that appropriate contract documentation code is put in place with and executed by OPDC in accordance with OPDC's Contract and Funding and any service provider before the commencement of the required services.

## **8. Planned delivery approach and next steps**

<b>Activity</b>	<b>Timeline</b>
Appeal Start Date	22 January 2020
Notifications and Questionnaire due	29 January 2020
Statement of Case due	26 February 2020
Inspector phone conference	9 March 2020
Proofs of Evidence due	31 March 2020
Section 106 to be agreed	13 April 2020
Inquiry (six days)	28 April 2020

### **Appendices and supporting papers:**

Appendix A: Planning Decision Notice

Appendix B: Start Letter from Planning Inspectorate

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the OPDC website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

**Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

**Part 1 Deferral:**

**Is the publication of Part 1 of this approval to be deferred? YES/NO**

If YES, for what reason:

Until what date: (a date is required if deferring)

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form – NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer  
to confirm the  
following (✓)

*[DO NOT DELETE CONTEXT IN THIS BOX]*

**Drafting officer:**

Jon Sheldon has drafted this report in accordance with OPDC procedures and confirms that:

✓

**Financial and Legal advice:**

The Finance team has commented on this proposal, and this decision reflects their comments.

✓

The Legal team has commented on this proposal, and this decision reflects their comments.

✓

**CHIEF FINANCIAL OFFICER:**

I confirm that financial implications have been appropriately considered in the preparation of this report.

Signature 

Date 06/02/2020

**DIRECTOR OF PLANNING**

I confirm that I have reviewed this request and can confirm that I am satisfied it is correct and consistent with the OPDC business plan and priorities. It has my clearance and can be referred to the CEO for final approval.

**Signature**A handwritten signature in cursive script, appearing to read 'Cabrera', written in black ink.**Date** 06.02.2020







## REFUSAL OF PLANNING PERMISSION

**Town and Country Planning Act 1990 (as amended)**  
**The Town and Country Planning (Development Management Procedure) (England)**  
**Order 2015**

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Please see notes at the end of this notice

**Applicant**

A40 Data Centre B.V  
c/o Agent

**Agent**

Hannah Willcock  
DP9  
100 Pall Mall  
London  
SW1Y 5NQ

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**Part I      -      Particulars of Application**

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Date of Application: 14-January-2019

Application No: 19/0006/FUMOPDC

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**Proposal:**      Demolition of the existing building and redevelopment to provide a ground plus ten storey building and two levels of basement to provide flexible industrial uses (Use Class B2/B8) over ground and first floor, offices (Use Class B1a) at second floor and hotel (Use Class C1) uses on floors three to ten, and associated car parking, servicing and all necessary enabling works.

**Location:**      628 Western Avenue, Park Royal, W3 0TA

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## Part II - Particulars of Decision

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in pursuance of the powers under the above Act and Order, Old Oak and Park Royal Development Corporation hereby gives notice that **PLANNING PERMISSION HAS BEEN REFUSED** for the carrying out of the development referred to in Part I hereof and as described and shown on the application and plan(s) submitted, for the following reasons.

- 1) The proposed development would result in the inappropriate introduction of substantial town centre uses, namely a hotel (Use Class C1) and offices (Use Class B1a), within a designated Strategic Industrial Location, resulting in detrimental harm to the supply, function and operation of land protected and required for industrial, logistics and related uses that support the functioning of London's economy. Accordingly, the application is contrary to Policy 2.17 of the London Plan (2016); Policy 3.3 of the Ealing Development (Core) Strategy DPD (2012); Policies E4 and E5 of the draft London Plan (2018) and Policies SP5 and E1 of the Second Revised Draft Regulation 19 (2) OPDC Local Plan (2018).
- 2) The proposed building, by way of its excessive height, scale and massing, would result in less than substantial harm to the setting and significance of designated heritage assets, namely the Grade II Listed Park Royal London Underground Station and the Hanger Hill (Haymills) Estate Conservation Area, without providing sufficient public benefit to outweigh this less than substantial harm, failing to preserve or enhance the special architectural and historic significance of these designated heritage assets contrary to Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended); Section 16 of the National Planning Policy Framework (2019); Policies 7.4, 7.7, and 7.8 of the London Plan (2016); Policies 7C and 7.7 of the Ealing Development Management DPD (2013) and Policies D4 and D8 of the Second Revised Draft Regulation 19 (2) OPDC Local Plan (2018).
- 3) The proposed development, by way of the introduction of substantial town centre uses outside Park Royal Centre, would undermine the delivery of the placemaking objectives for the designated neighbourhood centre and in particular the creation of a more vibrant neighbourhood centre providing a diverse range of services and amenities for the wider industrial estate. Equally, the introduction of these uses within SIL would equally undermine the strategic vision for the Park Royal Industrial Estate as a place for industry and which should be protected, strengthened and intensified. Accordingly, the proposal is contrary to Policy 2.13 and Annex A (26) of the Mayor's London Plan 2016, the vision for Park Royal in Chapter 2 (para 2.1.59) of the draft New London Plan (2018), the Vision and Principle L2 of the Old Oak and Park Royal OAPF, the Spatial Vision and Narrative 7, Vision for Place P4 and P6 and Policies SP6 and P6 of the Second Revised Draft Regulation 19 (2) OPDC Local Plan (2018).

### Proactive and Positive Statement

In accordance with the National Planning Policy Framework and with Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the following statement explains how OPDC as local planning authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with this application:

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OPDC, as the local planning authority, has worked with the applicant in a positive and proactive manner by offering a full pre-application service. In particular, OPDC outlined their concerns with the proposal at a very early stage in the pre-application process and provided consistent advice in this regard, in an effort to ensure that the applicant has had the opportunity to submit an application which would be likely to be considered favourably. Unfortunately, this advice was not adhered to. In addition, the local planning authority provided guidance on how outstanding planning matters could be addressed prior to determination of the application. The application is contrary to relevant national, regional and local planning policy and OPDC has decided to refuse planning permission accordingly. Nevertheless, OPDC is ready to enter into discussions with the applicants through the pre-application service to assist in the preparation of a new planning application.

Dated this: 12 July 2019



**Tom Cardis**

Interim Director of Planning

Old Oak and Park Royal Development Corporation

**Old Oak and Park Royal Development Corporation**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**Statement of Applicant's Rights**

**Appeals to the Secretary of State**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State for Communities and Local Government under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice or within 12 weeks in the case of a householder<sup>1</sup> appeal.
- Appeals must be made using the correct form, which is available from the Planning Inspectorate (a copy of which must be sent to Old Oak and Park Royal Development Corporation), or can be completed online.

The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)) or (Tel: 0117 372 8000).

To make an appeal online, please use [www.planningportal.gov.uk/pcs](http://www.planningportal.gov.uk/pcs). The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

- The Secretary of State can allow a longer period for giving notice of an appeal, but the Secretary of State will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of any Development Order and to any directions given under a Development Order.
- In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by the Secretary of State.

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<sup>1</sup> For the purposes of an appeal, a householder development is development in the boundary of, or to an existing dwellinghouse for purposes incidental to the enjoyment of the dwellinghouse, that does not involve change of use or a change to the number of dwellings.

Please note, this does not include development in the boundary of, or to an existing flat or maisonette.

## Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state, nor render the land capable of a reasonably beneficial use, either carrying out any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land, in accordance with the provisions of Part VI of the Town and Country Planning Act 1990 (as amended).





# The Planning Inspectorate

3/J Kite Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Direct Line: 0303 444 5384  
Customer Services:  
0303 444 5000

Email:  
ELIZABETH.HUMPHREY@planning-inspectorate.gov.uk

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

Old Oak and Park Royal Development  
Corporation  
Greater London Authority  
City Hall  
The Queen's Walk  
London  
SE1 2AA

Your Ref:

Our Ref: APP/F5730/W/19/3243706

22 January 2020

Dear Sir/Madam,

## **Town and Country Planning Act 1990**

### **Appeal by A40 Data Centre B.V**

**Site Address: 628 Western Avenue, Park Royal, London, W3 0TA**

I have received 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 the starting date**

The appellant(s) has requested the Inquiry procedure. In accordance with s319A of the Act we have applied the criteria and considered all representations received, including the appellant(s) preferred choice. We consider the Inquiry procedure to be suitable.

The Independent Review of Planning Appeal Inquiries has been published and the Planning Inspectorate is implementing some of the recommendations, where we can and in line with our Action Plan (hyperlinks below).

<https://www.gov.uk/government/publications/independent-review-of-planning-appeal-inquiries-report>

<https://www.gov.uk/government/news/planning-inspectorate-publish-an-updated-inquiries-review-action-plan-following-bridget-rosewells-recent-visit>

This appeal, whilst still being handled in line with the relevant inquiries procedure rules, will therefore be the subject of an accelerated approach with the aim that the decision will be published within 24 weeks of the receipt of a valid appeal.

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

### **The Inspector and Inquiry date**

The Inspector appointed to decide the appeal is Nick Fagan BSc (Hons) DipTP MRTPI and the inquiry will open at **10.00am on 28 April 2020**. We have currently scheduled 6 sitting days.

Please can the LPA secure a suitable venue as soon as possible and provide details.

The Inspector will hold a case management conference with the main parties by telephone, in week commencing 9 March 2020. More details will follow including an agenda and details of how to call in. Each party should have a single spokesperson nominated to speak. Please can you provide their name and email address 7 days before the case conference, along with the names of any other participants.

In advance of the case management conference, parties are requested to focus only on the matters that are in dispute and give detailed consideration as to exactly what topics could most efficiently be dealt with as a round table discussion at the inquiry (or even just by written submissions) in order to ensure that the inquiry is conducted in an efficient and effective manner, optimising inquiry time. This will be an item on the agenda for the conference. In light of the outcome of that discussion, the Inspector will direct how the evidence will be dealt with at the inquiry.

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

A timetable for some elements of the case is set out below. No reminders will be sent, and any documents sent after the deadlines will normally be returned.

You can use the Internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is <https://acp.planninginspectorate.gov.uk/>

If emailing documents, please use the email address above. If posting documents (other than the Questionnaire) please send 2 copies of everything. Whichever method you use, please make sure that all documents/emails are clearly marked with the full reference number.

Guidance on communicating with us electronically can be found at <https://www.gov.uk/government/publications/planning-appeals-procedural-guide>

### **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. Not meeting the prescribed timetables may be a reason for the Inspector to initiate an award of costs (see section on costs below).

Unless agreed otherwise by the Inspector at the case management conference the following documents must be sent within this timetable.

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**By 29 January 2020**



Using the model notification letter at the following link <https://www.gov.uk/government/publications/model-notification-letter-for-planning-appeals> you must notify any person who was notified or consulted about the application in accordance with the Act or a development order and any other interested persons who made representations to you about the application, that the appeal(s) has been made. You should tell them:-

- i) that any comments they made at application stage will be sent to me and the appellant(s) and will be considered by the Inspector (unless they withdraw them within the 5 week deadline). If they want to make any additional comments they must submit 3 copies within 5 weeks of the starting date, **by 26 February 2020**. If comments are submitted after the deadline, the Inspector will not normally look at them and they will be returned;
- ii) when and where the appeal documents will be available for inspection;
- iii) 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);
- iv) that they can get a copy of our booklet 'Guide to taking part in planning appeals proceeding by Inquiry' either free of charge from you, or on GOV.UK <https://www.gov.uk/government/collections/taking-part-in-a-planning-listed-building-or-enforcement-appeal>;
- v) that the decision will be published on GOV.UK.

You must send a copy of a completed appeal questionnaire and supporting documents, a copy of your notification letter and a list of those notified to the appellant(s) and me.

### **By 26 February 2020**

Please send me 2 copies of your statement giving **full** details of the case you will put forward at the inquiry including any documents, maps or plans you intend to refer to or use in evidence. The appellant may require you to send any such document (or relevant part of such a document). Please also include a list of any conditions or limitations you would agree to, if the appeal were to be allowed. I will send a copy of your statement to the appellant(s) and you must send a copy of your statement to any statutory parties. I will also send you and the appellant(s) a copy of any comments received from other interested persons or organisations.

You must also submit a copy of the completed agreed statement of common ground, listing all matters that are not only agreed but also confirming areas where there is disagreement. Further guidance on producing statements of common ground (and a model form) is available from <https://www.gov.uk/government/publications/statement-of-common-ground>

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.

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### **By 31 March 2020**

You and the appellant(s) must send me 2 copies of your proof(s) of evidence (and a written summary if the proof is over 1500 words in length). You should also send a copy to any statutory party. 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.

### **By 7 April 2020**

Please send a copy of the LPA inquiry notification letter.

### **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 provided on GOV.UK - <https://www.gov.uk/government/publications/planning-appeals-procedural-guide>. A draft, or heads of terms, should be submitted before the case management conference. A final draft, agreed by all parties to it, must be submitted to me no later than 10 working days before the inquiry opens.

### **Statutory parties**

'Statutory parties' are owners or tenants of the application/appeal site who made comments within the time limit on the application, or who do so on appeal. You must give details of any statutory parties at application stage on the questionnaire. I will tell you about any statutory parties who write to us at appeal stage, before your statement of case is due.

### **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.

### **The Appeal decision**

The decision is expected to be issued on or before 30 June 2020.

### **Further information**

Further information about the appeals process can be accessed at GOV.UK - <https://>

[www.gov.uk/government/publications/planning-appeals-procedural-guide](http://www.gov.uk/government/publications/planning-appeals-procedural-guide). I recommend that you read the relevant guidance.

Yours faithfully,

***Elizabeth Humphrey***

Elizabeth Humphrey

*Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>*

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