

INSPECTOR'S PRE-CASE MANAGEMENT CONFERENCE NOTE

APPEAL A: APP/G5180/C/25/3363900 - against an enforcement notice alleging without the required planning permission, the material change of use from Sui Generis formed of an electricity undertaker's depot to a dual use of Class B8 (to provide a scaffolding equipment storage/distribution yard) and Sui Generis retaining the existing electricity undertaker's depot, installation of two single storey cabins and CCTV/lighting.

APPEAL B: APP/G5180/W/25/3365514 - against the refusal to grant planning permission for "Full application for the temporary (5 years) change of use for Sui Generis formed of an electricity undertaker's depot to a dual use of Class B8 and Sui Generis retaining the existing electricity undertaker's depot. Retrospective."

LAND AT: London Electricity Board Depot, Churchfields Road, Beckenham

Introduction

1. My name is Ms Melissa Madge, I am a chartered town planner and the Planning Inspector appointed to determine these appeals. I will lead the forthcoming case management conference (CMC) which will be held virtually and will open at 10:00 on Thursday 17 July 2025. Instructions for joining the conference, the etiquette to be observed, and the CMC agenda are contained in annexes 1-3 of this note.
2. The purpose of the CMC is to set out a clear indication as to the ongoing management of these appeals and the presentation of the evidence, so that the forthcoming Inquiry is conducted in an efficient and effective manner. There will be no discussion as to the merits of your respective cases and I will not hear any evidence.

The grounds of appeal

3. In respect of Appeal A, it is my understanding that this appeal was made on the following grounds:
 - Ground (e): that London Power Networks PLC, has not been served with a copy of the Notice, contrary to the requirements of section 172 of the 1990 Act.
 - Ground (f): that the lesser steps of providing a buzz saw curtain and acoustic mitigation, as recommended by the Waterman Report, would remedy the breach of planning control or, as the case may be, the injury to amenity.

- Ground (g): that, due to likely difficulties in finding alternative premises and the likely lead in time for moving once alternative premises are found, the period for compliance falls short of what should reasonably be allowed to ensure that jobs are not lost.
4. In respect of Appeal B, it is my understanding that this appeal was made on the following grounds:
- Noise Assessment data relating to activity on the appeal site demonstrates it does not result in a detrimental impact on residents' amenity, in compliance with policies 37 and 199 of the Bromley Local Plan ("BLP") and C14 of the London Plan ("LP");
 - There is adequate and safe passage for users of the access road and Churchfield Road for pedestrians, cyclists and other road users, in compliance with policies 32 of the BLP and T2, T5 and T6 of the LP; and
 - If found to be necessary, the appellant is willing to enter into a 'Delivery and Service Plan' for the scaffolding yard.

The Main Issues

5. The main issues for the s174 appeal (Appeal A) are:
- Whether I need to put the enforcement notice in order;
 - Whether London Power Networks PLC has been substantially prejudiced by the failure to have been served with a copy of the enforcement notice;
 - Whether the steps required to be taken to remedy the breach of planning control are excessive, and whether the lesser steps suggested would remedy the breach or injury to amenity, as the case may be; and
 - Whether the 3 month compliance period specified falls short of what should reasonably be allowed.
6. The main issues for the s78 appeal (Appeal B) are:
- The development's effect on the living conditions of neighbouring occupiers, with regard to noise and disturbance associated with comings and goings to and from the site as well as on site activities; and
 - The development's effect on highway safety, and whether any highway safety harm can be satisfactorily mitigated and/or controlled.

7. You are requested to give consideration in advance of the CMC as to whether the identified main issues encapsulate those most pertinent to the outcome of these appeals.

Procedure for Determining the Appeals

8. While there are not likely to be large amounts of highly technical data provided in evidence, there are technical noise assessments and transport reports to be considered. There is also a clearly explained need for this evidence to be tested through formal questioning by an advocate. Furthermore, the development has generated substantial local interest, albeit that interest has a narrow focus.
9. For the reasons given above, I find that the determination of the appeals by way of Inquiry is appropriate.
10. The Inquiry is scheduled to open at 10:00 on Tuesday 19 August 2025 at a venue to be confirmed. It has been scheduled to sit for no more than five days (19, 20, 21, 27 and 28 August 2025). During the CMC we will discuss whether the length of time scheduled is excessive and could be reduced.
11. It is essential that all parties communicate effectively with one another to seek to narrow the issues for consideration at the Inquiry. This should be an on-going conversation.

Dealing with the evidence

12. A signed Statement of Common Ground ("SoCG") should be submitted. This document is essential to ensure that the evidence at the Inquiry focuses on the areas of disagreement between the appellant and the Council. It will also help focus parties' proofs of evidence ("POE") and will therefore need to be agreed in advance of the POE submission date, 22 July 2025. I would therefore suggest that the SoCG be agreed as soon as practicably possible.
13. Paragraph 9.4.13.3 of the Procedural Guide: Enforcement Notice Appeals - England and paragraph 13.2.4 of the Procedural Guide: Planning Appeals - England provide advice in respect of the content of a SOCG. Paragraphs 9.4.13.4 and 13.2.5 respectively contain a link to a SOCG form, which can be utilised.
14. The Inquiry must focus on areas where there is disagreement. Unnecessary repetition in the presentation of evidence should be avoided. With that in mind, the CMC will explore how best to hear the evidence to ensure that the Inquiry is conducted as efficiently as possible. My initial thoughts are set out below.
15. My preference is to hear the evidence in respect of the s78 appeal (Appeal B) from each main party on a witness basis, starting with the Council's witnesses and concluding with the appellant's witnesses. In respect of conditions for the s78 appeal (Appeal B), the need to put the enforcement notice in order, and the ground (e), (f) and (g) appeals (Appeal A) my

preference is to hear the evidence by way of round table discussions. Any request for evidence to be heard other than as I have suggested will need to be justified at the CMC.

16. To assist in setting the Inquiry programme, I will seek witness details from the main parties at the CMC.

Other matters

17. An accompanied site visit will be undertaken as part of the event. The timing of this and any practical matters that need to be addressed will be discussed at the CMC. Please therefore give consideration to whether the site visit needs to be carried out before evidence is heard.
18. We will discuss whether there is need for a Core Document Library or whether a Core Document List is sufficient.

For Information

19. Annex 4 sets out my preferred format and content of proofs of evidence ('POEs') and other material, which should be observed. Annex 5 sets out my preferred format for the core document list which the Council should compile and manage.
20. Please note that all documents will be required to be submitted electronically. A public document library must be provided both online and in either a hard copy or accessible electronic form at the Inquiry venue.
21. I will require a hard copy of all core documents, which can be provided to me at the venue.

M Madge
INSPECTOR

3 June 2025

Enclosures: Annex 1-5

Annex 1: Instructions for joining the Case Management Conference

1. Please join the conference before the start time by using the link that will be provided by the Council.
2. Should you experience any connection difficulties either before or during the conference, please contact the Council direct.
3. Where a party experiences connection difficulties the Inspector will adjourn the conference until the matter is resolved.
4. Detailed instructions on the running of a virtual event will be provided during the conference.

Annex 2: Etiquette for Case Management Conference

1. Before joining the conference, please ensure that:
 - all the necessary persons for your side are present in good time and that mobile phones and the like are turned off, or on silent mode during the conference;
 - any electronic devices/phones you will be relying on during the conference all are fully charged;
 - you know how to join the conference;
 - you have a copy of the agenda readily to hand; and
 - a single spokesperson is nominated to speak for each party.
2. Upon joining the conference, the Council will record the names of those present during the call for each party before the Inspector leading the case conference 'arrives'. The Inspector will 'arrive' last and leave first. As a matter of courtesy, please make the Council aware when joining if you intend to record the conference.
3. During the conference the Inspector will lead the conference. She will invite specific contributors to speak at particular times. Please use the 'raise hand' function to indicate when you wish to speak, but also remember to cancel this after you have spoken.
4. Please be conscious of when, and when not to speak – talking over people is rude in any situation. No one likes being spoken over, so please make sure you take note of your cues to speak and don't speak over (or louder) than the other participants.
5. Background noise on a conference call can be an issue. Please remember to put yourself on mute and then un-mute yourself when you speak. Also, please make sure that other devices are kept away from the main speaker to avoid potential issues with feedback.

Annex 3: Case Management Conference Agenda

1. Introduction by Inspector
2. Confirmation of advocates and witnesses
3. Grounds of appeal & likely main issues
4. Format of examination
5. Inquiry running order, programme, and any requirement for evening session
6. Core documents and website
7. Inquiry venue and virtual event arrangements
8. Timetable for submission of documents
9. Costs
10. Any other procedural or administrative matters

Annex 4: Preferred content and format of proofs and appendices

Content of proofs

Proofs of evidence **should**:

- focus on the main issues identified, in particular on areas of disagreement;
- be proportionate to the number and complexity of issues and matters that the witness is addressing;
- be concise, precise, relevant and contain facts and expert opinion deriving from witnesses' own professional expertise and experience, and/or local knowledge;
- be prepared with a clear structure that identifies and addresses the main issues within the witness's field of knowledge and avoids repetition;
- focus on what is really necessary to make the case and avoid including unnecessary material, or duplicating material in other documents or another witness's evidence; and
- where data is referred to, include that data, and outline any relevant assessment methodology and the assumptions used to support the arguments (unless this material has been previously agreed and is included as part of the statement of common ground).

Proofs of evidence **should not**:

- duplicate information already included in other Inquiry material, such as site description, planning history and the relevant planning policy; or
- recite the text of policies referred to elsewhere: the proofs need only identify the relevant policy numbers, with extracts being provided as core documents. Only policies which are needed to understand the argument being put forward and are fundamental to an appraisal of the proposals' merits need be referred to.

Format of the proofs and appendices

Proofs to be no longer than 3000 words if possible. Where proofs are longer than 1500 words, summaries are to be submitted.

An electronic copy of each proof and any appendices are required. A hardcopy of each proof is also to be provided spiral bound or bound in such a way as to be easily opened and read. Front covers to proofs and appendices are to be clearly titled, with the name of the witness on the cover. Pages and paragraphs should be numbered. Appendices are to be bound separately. Appendices are to be indexed using projecting tabs, labelled and paginated.

Annex 5: Template for Core Document List

CORE DOCUMENT LIST

CD1 Application Documents and Plans

- 1.1
- 1.2 etc

CD2 Additional/Amended Reports and/or Plans submitted after validation

- 2.1
- 2.2 etc

CD3 Committee Report and Decision Notice

- 3.1 Officer's Report and minute of committee meeting
- 3.2 Decision Notice
- 3.3 etc

CD4 The Development Plan

- 4.1
- 4.2 etc

CD5 Emerging Development Plan (where relevant)

- 5.1
- 5.2 etc

CD6 Relevant Appeal Decisions*

- 6.1
- 6.2 etc

CD7 Relevant Judgements*

- 7.1
- 7.2 etc

CD8 Other

- 8.1
- 8.2 etc

* Any Appeal Decisions on which a party intends to rely must each be prefaced with a note explaining the relevance of the Decision to the issues arising in the current Inquiry case, together with the propositions relied on, with the relevant paragraphs flagged up. A similar approach is to be taken in relation to any legal citations relied upon.