
**WITNESS STATEMENT OF
KAREN HOWARD**

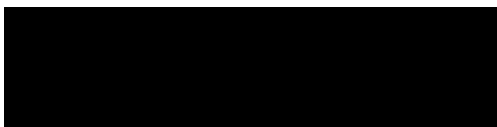
in support of Christopher Scott Padfield,
S&J Padfield & Partners LLP and
S&J Padfield Estates LLP

I, KAREN HOWARD Solicitor and Partner in Gateley Legal of 1 Paternoster Square, London, EC4M 7DX make this witness statement in support of Christopher Scott Padfield, S&J Padfield & Partners LLP, S&J Padfield Estates LLP (“Padfield”) and the submission to the proposed Development Consent Order for Lower Thames Crossing and believe these facts to be true.

1. I have acted for Padfield since October 2018 (previously whilst at Shoosmiths LLP) and continue to act for Padfield in this and other associated matters.
2. I have visited both North and South Codham several times over the last five years and have been taken by car across both areas to observe the various uses and activities taking place on the land.
3. Codham Hall South is covered by Green Belt National Policy. The result of its recent allocation under the current Brentwood Local plan 2016 – 2033 (adopted March 2022) was to remove around 25.85 ha of land from the Green Belt, and so from its constraint national policy as endorsed and found sound by the Secretary of State’s Inspector in the Examination into the Plan, and to allocate it for employment use under Policy E11.
4. Christopher Padfield in his Statutory Declaration dated 15 November 2023 refers to the many commercial lettings of parts of Codham Hall South. I have read the contents of that Statutory declaration.
5. There are both tenants and occupiers of the land within the area coloured pink on the Land Plans that overlaps with Codham Hall South. The occupation of that same land can be seen from the Brentwood Enterprise Park planning application aerial photograph also.
6. The Examiners will have recently observed the number of uses across Codham Hall South on the Assisted Site visit.
7. In our previous submissions made on behalf of Padfield to the Lower Thames Development consent order process we have made it clear that there are several tenants and occupiers on the land who I have observed during my site visits.

8. The tenants and occupiers of Codham Hall South are not my clients, but to assist the Secretary of State, I provide the following evidence.
9. I have been advised by email correspondence that at least six occupiers on Codham Hall South were not consulted at the time of the application to submit the Development Consent Order.
10. I produce a copy of Sections 42 – 44 of the Planning Act 2008 and have noted the provision requiring “diligent inquiry” as to whether a **“person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land”** to be made under Section 44.
11. I have not received any evidence to prove or indicate that any of the occupiers were consulted in relation to the application in accordance with the provisions of Section 42 of the Planning Act 2008.
12. Access to Codham Hall South is not prohibited and it would be easy for Highways England to make diligent enquiries of such occupiers to check who was present on the land. There is doubt over whether such diligent enquiries have ever been made.
13. I can confirm that I have seen evidence of leases, licences and tenancies for the occupiers which has been shown to me by Christopher Padfield.
14. Those occupiers will be affected by the proposals to sever the existing access to the M25 from the South east quadrant and in most cases will be adversely affected by the project.
15. It is important to have regard to the above facts above especially with regard to the ability for those occupiers to make a relevant claim to Highways England for their interests.
16. It is also important to acknowledge that the lack of consultation and consideration of those various interests are not likely to have been considered in the funding statement for the project.

Sign



Name:.....Karen Howard.....

Date: 17 November 2023

Planning Act 2008 c. 29

s. 42 Duty to consult



Version 2 of 2

1 April 2010 - Present

Subjects

Planning

Keywords

Consultation; Development consent applications

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42 Duty to consult

- (1) The applicant must consult the following about the proposed application—
- (a) such persons as may be prescribed,
 - (aa) the Marine Management Organisation, in any case where the proposed development would affect, or would be likely to affect, any of the areas specified in subsection (2),
 - (b) each local authority that is within [section 43](#),
 - (c) the Greater London Authority if the land is in Greater London, and
 - (d) each person who is within one or more of the categories set out in [section 44](#).
- (2) The areas are—

- (a) waters in or adjacent to England up to the seaward limits of the territorial sea;
- (b) an exclusive economic zone, except any part of an exclusive economic zone in relation to which the Scottish Ministers have functions;
- (c) a Renewable Energy Zone, except any part of a Renewable Energy Zone in relation to which the Scottish Ministers have functions;
- (d) an area designated under [section 1\(7\)](#) of the [Continental Shelf Act 1964](#), except any part of that area which is within a part of an exclusive economic zone or Renewable Energy Zone in relation to which the Scottish Ministers have functions.

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Notes

- 1 Existing s.42 renumbered as s.42(1) and s.42(1)(aa) and (2) inserted by Marine and Coastal Access Act 2009 c. 23 [Pt 1 c.4 s.23\(2\)](#) (April 1, 2010)

Part 5 APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT > Chapter 2 PRE-APPLICATION PROCEDURE > s. 42 Duty to consult

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s. 44 Categories for purposes of section 42(1)(d)



Law In Force

Version 3 of 3

1 April 2012 - Present

Subjects

Planning

Keywords

Consultation; Development consent applications; Proprietary interests

44 [Categories for purposes of section 42(1)(d)]¹

(1) A person is within Category 1 if the applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

(2) A person is within Category 2 if the applicant, after making diligent inquiry, knows that the person—

(a) is interested in the land, or

(b) has power—

(i) to sell and convey the land, or

(ii) to release the land.

(3) An expression, other than “the land”, that appears in subsection (2) of this section and also in [section 5\(1\)](#) of the [Compulsory Purchase Act 1965 \(c. 56\)](#) has in subsection (2) the meaning that it has in [section 5\(1\)](#) of that Act.

(4) A person is within Category 3 if the applicant thinks that, if the order sought by the proposed application were to be made and fully implemented, the person would or might be entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of use of the land once the order has been implemented,

to make a relevant claim. This is subject to subsection (5).

(5) A person is within Category 3 only if the person is known to the applicant after making diligent inquiry.

(6) In subsection (4) “*relevant claim*” means—

(a) a claim under [section 10](#) of the [Compulsory Purchase Act 1965 \(c. 56\)](#) (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);

(b) a claim under [Part 1](#) of the [Land Compensation Act 1973 \(c. 26\)](#) (compensation for depreciation of land value by physical factors caused by use of public works) [;]²

[

(c) a claim under [section 152\(3\)](#).

]²

Notes

1 Heading substituted by Marine and Coastal Access Act 2009 c. 23 Pt 1 c.4 s.23(3)(b) (April 1, 2010)

2 Added by Localism Act 2011 c. 20 Pt 6 c.6 s.135(8) (April 1, 2012)

Part 5 APPLICATIONS FOR ORDERS GRANTING DEVELOPMENT CONSENT > Chapter 2 PRE-APPLICATION PROCEDURE > s. 44 Categories for purposes of section 42(1)(d)

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