

WHAT IS THE CURRENT POSITION OF THE PLANNING INSPECTORATE TO VIRTUAL APPEALS?



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INTRODUCTION [1]

- THREE CURRENT LAWFUL WAYS OF DETERMINING A PLANNING APPEAL UNDER SECTION 78 OF THE TCPA 1990:
 - WRITTEN REPRESENTATIONS.
 - HEARINGS.
 - PUBLIC INQUIRIES.
- VAST MAJORITY DETERMINED BY WRITTEN REPRESENTATIONS. [91%]
- THEN HEARINGS [7%]
- THEN PUBLIC INQUIRIES [2%]
- BUT NOW NEW MODE OF DETERMINATION – VIRTUAL APPEAL USING VIDEO AND TELEPHONE TECHNOLOGY TO DETERMINE AN APPEAL UNDER THE TCPA 1990.

INTRODUCTION [2]

- COVID 19 HAS HAD MANY EFFECTS BUT IN TERMS OF VIRTUAL APPEALS THERE HAS BEEN A COMPLETE TRANSFORMATION IN THE APPROACH OF PINS.
- REMEMBER UNTIL MARCH 2020 **NO VIRTUAL EVENT** HAD BEEN HELD BY PINS.
- NOW IN JUNE 2020 THERE IS A SCHOOL OF THOUGHT THAT VIRTUAL APPEALS WILL BE THE NORM IRRESPECTIVE OF WHETHER COVID IS A FACTOR OR NOT IN THE LONGER TERM.
- FOUR SCENARIOS:
 - OPTION 1 – NO VIRTUAL TECHNOLOGY USED IN THE APPEAL PROCESS.
 - OPTION 2 – ONLY VIRTUAL TECHNOLOGY USED IN THE APPEAL PROCESS.
 - OPTION 3 – PARTIAL HYBRID APPROACH – PARTIAL VIRTUAL TECHNOLOGY ON SAME MODE OF DETERMINATION [I.E. HEARING OR INQUIRY]
 - OPTION 4 – COMPLETE HYBRID APPROACH – PARTIAL VIRTUAL TECHNOLOGY AND DIFFERENT MODE OF DETERMINATION ON THE SAME APPEAL [PARTIAL HEARING/PARTIAL INQUIRY/ PARTIAL VIRTUAL HEARING/PARTIAL INQUIRY [SEE THE PLANNING BILL]

THE CHRONOLOGY OF COVID 19 ON PINS

- **10 MARCH 2020** – COMMENCEMENT OF PUBLIC INQUIRY AT WOKINGHAM – INSPECTOR RELATES TO THE PARTIES – NO POSITION TAKEN BY PINS ON COVID 19 CURRENTLY.
- **1 APRIL 2020** – PINS POSTPONE ALL HEARINGS, SITE VISITS AND INQUIRIES. ANNOUNCE THAT THEY ARE INVESTIGATING WAYS TO MITIGATE THIS THROUGH THE USE OF TECHNOLOGY.
- **5 MAY 2020** – PINS REMOVE STATISTICS RELATING TO THE AVERAGE TIMESCALES FOR THE DETERMINATION OF INQUIRIES.
- **11 MAY 2020** – FIRST HEARING DONE AS A PILOT BY PINS.
- **13 MAY 2020** – FURTHER PINS UPDATE ON APPEALS ANNOUNCING THE RECOMMENCEMENT OF SITE VISITS.
- **28 MAY 2020** – FURTHER PINS UPDATE ON APPEALS.
- **26 JUNE 2020** – FURTHER PINS UPDATE ON APPEALS

WHAT HAS HAPPENED IN THE LOCKDOWN?

- OVER 3500 DECISIONS ISSUED.
- UNDER NORMAL CIRCUMSTANCES PINS WOULD HAVE EXPECTED TO HAVE ISSUED 5600 IN THAT PERIOD.
- WRITTEN REPRESENTATIONS VAST MAJORITY OF APPEALS DETERMINED AND ON A PILOT BASIS WITHOUT VISITING THE SITE.
- AROUND 60 APPEALS BEING PROGRESSED AS PILOTS USING PHOTOGRAPHS OR VIDEO EVIDENCE TO DETERMINE THE APPEAL.
- 13 LOCAL PLAN LETTERS PUBLISHED.
- 600 SITE VISITS IN MAY.
- 15 HEARINGS TAKEN PLACE IN JUNE.
- PLANNING INQUIRIES ARE BEING CONCLUDED BY WRITTEN REPRESENTATIONS HAVING STARTED AS PUBLIC INQUIRIES [WOKINGHAM – GLADMAN INQUIRY]
- 10 PLANNING INQUIRIES VIRTUALLY HELD IN JUNE
 - INCLUDING 6 DAY PUBLIC INQUIRY RELATING TO HOUSING IN CHORLEY, LANCASHIRE.
- SOUTH OXFORDSHIRE EIP HELD AS WELL BY TELEPHONE.
- 15 HEARINGS FOR NATIONAL INFRASTRUCTURE PROJECTS IN JUNE AS WELL.

THE CURRENT POSITION IN PRACTICE

- PINS WILL NOT BE ARRANGING FACE TO FACE HEARINGS OR INQUIRIES “FOR THE FORESEEABLE FUTURE”.
- CURRENT PRACTICE APPEARS TO BE:
 - PROGRAMMING OF INQUIRIES WITH FLEXIBILITY TO DETERMINE HOW THEY WILL BE DETERMINED IN FUTURE.
 - PROGRAMMING OF HEARINGS WITH FLEXIBILITY TO DETERMINE HOW THEY WILL BE DETERMINED IN FUTURE.
- UNQUESTIONABLY THE POSITION WILL CHANGE AGAIN!
- WHAT IS NOW HAPPENING IS THAT PINS ARE ASKING APPELLANTS AND LOCAL PLANNING AUTHORITIES ABOUT THEIR VIEWS ON HOLDING VIRTUAL APPEALS.
- WORTH CONSIDERING THE ARGUMENTS BOTH WAYS

THE FUTURE

- NEXT 2-3 MONTHS LIKELIHOOD IS THAT MANY MORE VIRTUAL APPEALS AND EIPS WILL TAKE PLACE.
- NO QUESTION THAT PINS SERIOUSLY CONSIDERING VIRTUAL INQUIRIES PERMANENTLY.
- UNLIKELY TO BECOME THE NORM OR ONLY MEANS OF DETERMINATION DUE TO PROBLEMS WITH FULL PARTICIPATION FROM THIRD PARTIES.
- INSPECTORS FAVOUR PHYSICAL PRESENCE.
- ADDITIONALLY LOOKING AT ZOOM UNQUESTIONABLY CAUSES EXHAUSTION AND IS MUCH MORE PHYSICALLY DEMANDING.

THE PROS AND CONS OF VIRTUAL APPEALS

- UNQUESTIONABLY CHOOSING A VIRTUAL EVENT WILL RESULT CURRENTLY IN QUICKER DETERMINATIONS.
- A VIRTUAL EVENT IS A VOYAGE OF DISCOVERY FOR ALL.
- NOT NECESSARILY QUICKER IN TERMS OF TIMESCALE OF PROCEEDINGS BECAUSE OF THE MORE RESTRICTED HOURS.
- A VIRTUAL EVENT WILL DEPEND HUGELY ON THE INSPECTOR HOLDING THE APPEAL.
- A VIRTUAL EVENT WILL BE LESS PERSONAL AND REQUIRE A DIFFERENT FORM OF COMMUNICATION AND PRACTICE.
- A VIRTUAL EVENT WILL CHANGE HOW THIRD PARTIES PARTICIPATE IN THE APPEAL.
- A VIRTUAL EVENT WILL REQUIRE SERIOUS THOUGHT AND PREPARATION AS ANJOLI AND RICHARD WILL NOW SET OUT!

Thank you for listening

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