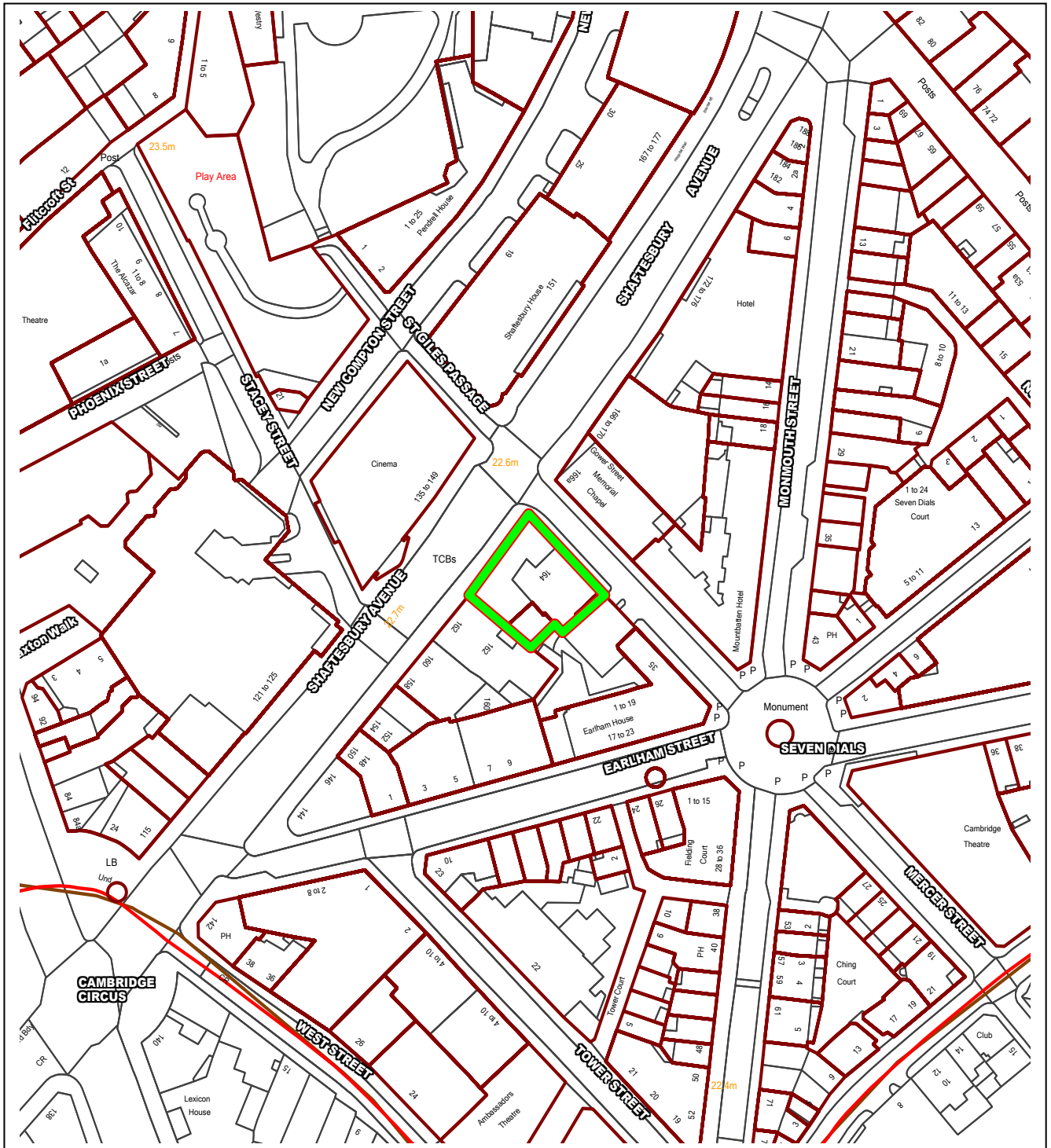


2021/5339/P - 164 Shaftesbury Av



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Images 1 & 2 – front and corner views of host building from Shaftesbury Avenue



Image 3 – side view of host building from Mercer Street (looking north-west)



| | | | | | |
|---|----------------------------|---|-------------------------------------|---------------------------------|------------|
| Delegated Report (Members Briefing) | | Analysis sheet | | Expiry Date | 27/12/2021 |
| | | N/A | | Consultation Expiry Date | 02/01/2022 |
| Case Officer | | | Application Number | | |
| Tony Young | | | 2021/5339/P | | |
| Application Address | | | Drawing Numbers | | |
| 164 Shaftesbury Avenue London WC2H 8HL | | | Refer to draft decision notice | | |
| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature | | |
| | | | | | |
| Proposal | | | | | |
| Installation of electronic communications equipment on rooftop comprising 6 x antennas and 2 x dishes on tripod structures, fixed to steel grillage and plinth on plant room roof, and ancillary works. | | | | | |
| Recommendation | | Grant Planning Permission subject to a Section 106 Legal Agreement | | | |
| Application Type | | Full Planning Permission | | | |

| | | | | | | |
|---|---|---|------------------|----|-------------------|----|
| Conditions or Reasons for Refusal | Refer to Draft Decision Notice | | | | | |
| Informatives | | | | | | |
| Consultations | | | | | | |
| Published notices | Site notices (x4) were displayed from 08/12/2021 to 01/01/2022 Press notice was published from 09/12/2021 to 02/01/2022 | | | | | |
| Adjoining Occupiers & local groups | No. notified | 0 | No. of responses | 03 | No. of objections | 03 |
| Summary of consultation responses from local residents, CAAC/local amenity groups, etc. | <p>The landlord (<u>Daejan Investments Ltd.</u>) responded and objected to the proposal, summarised as follows:</p> <ol style="list-style-type: none"> <i>The proposal would compromise the setting of nearby listed buildings area and the character and appearance of the wider area, recognised as part of the Seven Dials Conservation Area. The proposal conflicts with local and national planning policy and fails to meet the design standards of the Seven Dials Conservation Area. The harm resulting from the proposal significantly outweighs any associated benefits.</i> <i>The drawings indicate that the main roof is the top of the plant room (at 27.0m AGL), however, we consider the main roof level to be 24.15metres. As a result, the top of the proposed antennas protrudes 6.95 metres from the main roof level and 4.1metres from the top of the plant room.</i> <i>The applicant has not provided sufficient evidence or consideration in respect of justification for the utilisation of the application site, nor adequate evidence for discounting alternative site locations.</i> <i>There has been no attempt by the operator to open a communication dialogue with the Landlord regarding the proposals. The site is not available nor deliverable for such telecommunication equipment. The Landlord has imminent plans to re-clad, refurbish and re-purpose roof area, comprising occupational areas & terraced garden.</i> <p><u>Seven Dials Conservation Area Advisory Committee</u> responded and objected to the proposal as follows:</p> <ol style="list-style-type: none"> <i>Communication towers (6 antennas and 2 dishes on tripod stands) are completely out of keeping with the Sevens Dials Conservation Area.</i> <i>At a minimum, screening would be needed to make them not visible to the public realm.</i> <p><u>Covent Garden Community Association</u> responded and objected to the proposal, summarised as follows:</p> <ol style="list-style-type: none"> <i>Proposal has harmful appearance within the conservation area, and when viewed from nearby listed buildings such as the former Saville Theatre opposite (at 135-149 Shaftesbury Avenue).</i> <i>We are conscious that mobile connectivity is needed by the community, so we do not object the mounting of this equipment on a non-residential building in itself as long as it is minimally visible. If the equipment were screened or modified in a way that concealed its harmful appearance, we would withdraw our objection.</i> <p><u>Officer response:</u></p> <ol style="list-style-type: none"> <i>1, 5-8. see Sections 3-6 below in main body of report.</i> <i>The Council is satisfied that the heights referred to (in regard to the tops of both the main and plant room roofs) are clearly annotated and</i> | | | | | |

differentiated on the submitted drawings, and the proposals have been assessed on that basis.

3. *see Section 7 below in main body of report.*
4. *These are not planning matters requiring consideration under the current application. The proposal has been assessed on its' own merits, taking into account the relevant site context in accordance with all current policy and guidance.*

Site Description

The application site is located on the corner of Shaftesbury Avenue and Mercer Street and comprises a 7-storey 1970's office building with basement car park. The surrounding area generally contains a mix of commercial uses and forms part of London's busy West End and Theatre district.

The upper part of the host building consists of a main flat roof area with a plant room located towards the rear south-east corner. The main roof has a low parapet wall and along with the plant room, it accommodates mechanical plant and service equipment, a steel walkway, an aerial/antenna, handrails and a number of beehives.

The host building is not identified as making either a positive or negative contribution to the character and appearance of the Seven Dials Conservation Area in which it is situated. While the building itself is not listed, it is positioned opposite a Grade II listed building, the former Saville Theatre (no. 135-149 Shaftesbury Avenue). There are also several listed buildings located to the east and south-east of the site in Earlham Street, Mercer Street and Monmouth Street.

Relevant History

2005/4784/P - The erection of a roof extension at 5th floor level to the Mercer Street frontage to the existing office use (Class B1) and installation of new plant at 6th floor roof level. Planning permission granted 16/12/2005

2005/4782/P - The erection of a five storey rear extension at second to sixth floor levels to the existing office building (Class B1 use) together with the installation of additional roof plant, a safety rail and new duct at 6th floor level. Planning permission granted 16/12/2005

2005/3664/P - Extension of ground and first floor to accommodate a new lobby on the Shaftesbury Avenue elevation and new offices, and change of use of part of the ground floor and basement from office use (Class B1) to a flexible use as retail (Class A1), financial/professional services (Class A2), or office (Class B1). Planning permission granted 04/11/2005

PS9904574 - The installation of 1 radio equipment cabin at lower roof level and 3 panel antenna atop the existing plant room at upper roof level together with associated rails and platform. Planning permission granted 25/10/1999

9502081 - The erection of an extension at fifth floor level for office use. Planning permission refused and dismissed on appeal dated 09/10/1997

8601934 - The erection of a glazed solarium on the fifth floor roof for use in connection with the sixth floor residential flat. Planning permission granted 18/12/1986

HB972 - Demolition of Nos. 164 Shaftesbury Avenue, 15 - 27 Earlham Street, and 33 - 43 Mercer Street, WC2. Listed building consent granted 25/04/1975

48931 - The erection of a new building for shops, offices and residential use at Nos. 164 Shaftesbury Avenue, 15-27 Earlham Street and 33-43 Mercer Street. Planning permission granted 25/03/1974

17597 - The erection of a new building for shops, offices and residential use at Nos. 164 Shaftesbury Avenue, 15-27 Earlham Street and 33-43 Mercer Street. Planning permission granted 25/03/1974

10875 - Redevelopment of the above site by erection of a building of basement, ground and five floors over for use as offices and 15 luxury flats, with additional flats for a Director and Caretaker, with parking accommodation for 30 cars. Planning permission granted 25/10/1971

Relevant history for existing site to be decommissioned (no. 125 Shaftesbury Avenue)

PS9904697 - The installation of a radio equipment cabin and three panel antennae, mounted on the roof. GPDO prior approval granted 10/08/1999

PS9804757 - The erection of six pole mounted directional antennae, up to four dish antennae and one equipment cabin with a maximum cubic capacity of 30 cubic metres. GPDO prior approval granted 27/08/1998

Relevant policies

National Planning Policy Framework 2021

Chapters 6 (Building a strong, competitive economy), 10 (Supporting high quality communications), 12 (Achieving well-designed places) and 16 (Conserving and enhancing the historic environment)

London Plan 2021

Camden Local Plan 2017

A1 - Managing the impact of development

A4 - Noise and vibration

D1 - Design

D2 - Heritage

E1 - Economic development

Camden Planning Guidance

CPG Design (January 2021) - chapters 1 (Introduction), 2 (Design excellence), 3 (Heritage), 7 (Designing safer environments) and Chapter 9 (Building services equipment)

CPG Digital infrastructure (March 2018) - Telecommunications equipment (paragraphs 11- 15)

CPG Amenity (January 2021) - chapters 1 (Introduction), 2 (Overlooking, privacy and outlook), 3 (Daylight and sunlight) and 6 (Noise and vibration)

Seven Dials Conservation Area Statement (adopted 1998)

Code of Best Practice on Mobile Network Development (November 2016)

Assessment

1. Proposal

- 1.1 Planning permission is sought to install electronic communications equipment on the rooftop of the host building, comprising 6 x antennas and 2 x dishes on tripod structures, fixed to steel grillage and plinth on top of an existing plant room, and some ancillary works.
- 1.2 The proposed installation is required to replace an existing electronic communications base station (on the rooftop of no. 125 Shaftesbury Avenue) located approximately 57 metres to the west which is due to be decommissioned (see Image 1 below). The proposal is therefore required in order to provide continuous 2G, 3G and 4G network coverage to ensure that existing network service is maintained in the area, as well as, future-proofing of the site to allow for improved connectivity and network enhancement, including 5G coverage, to the surrounding area on behalf of Cornerstone, a leading UK mobile infrastructure service company, and licenced operator, Telefonica UK Limited.

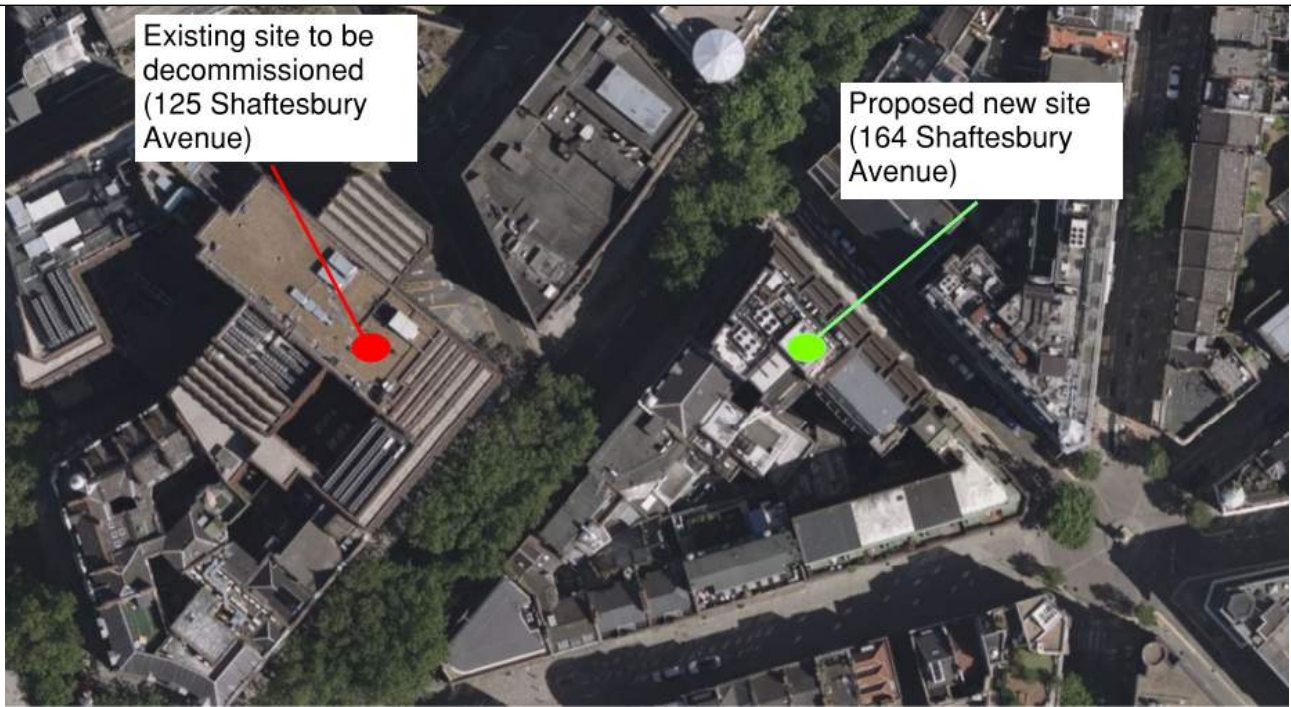
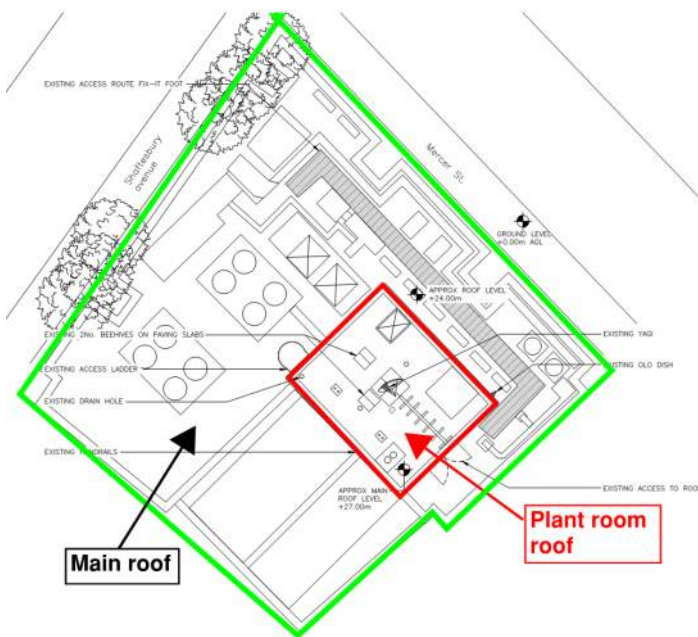


Image 1 – aerial image of existing and proposed sites

1.3 The existing roof area of the host building consists of a main flat roof space measuring 24.15m in height above ground level with a roof parapet rising to approximately 0.5m above the main roof level. A plant room is located towards the rear south-east corner with a flat roof measuring 27.0m in height above ground level with a handrail which rises up by an additional metre and some existing equipment which sits approximately 1.5m above the plant room roof. The rooftop is absent of any active electronic communications equipment (see Images 2 and 3 below).



Images 2 & 3 – extract of existing plan and aerial image of main roof (green) and plant room (red)

1.4 The 6 x proposed antennas would be mounted in pairs on 3 tripod structures and located in 3 positions around the edges of the plant room roof. The top of the antennas are proposed to rise to 31.1m in height above ground level to the top of the proposed antenna, so measuring 4.1m above the height of the plant room roof when mounted on the tripod structures (see Image 4 below). This would represent a proposed increase in height of approximately 2.5m above some existing plant in situ on the plant room roof.

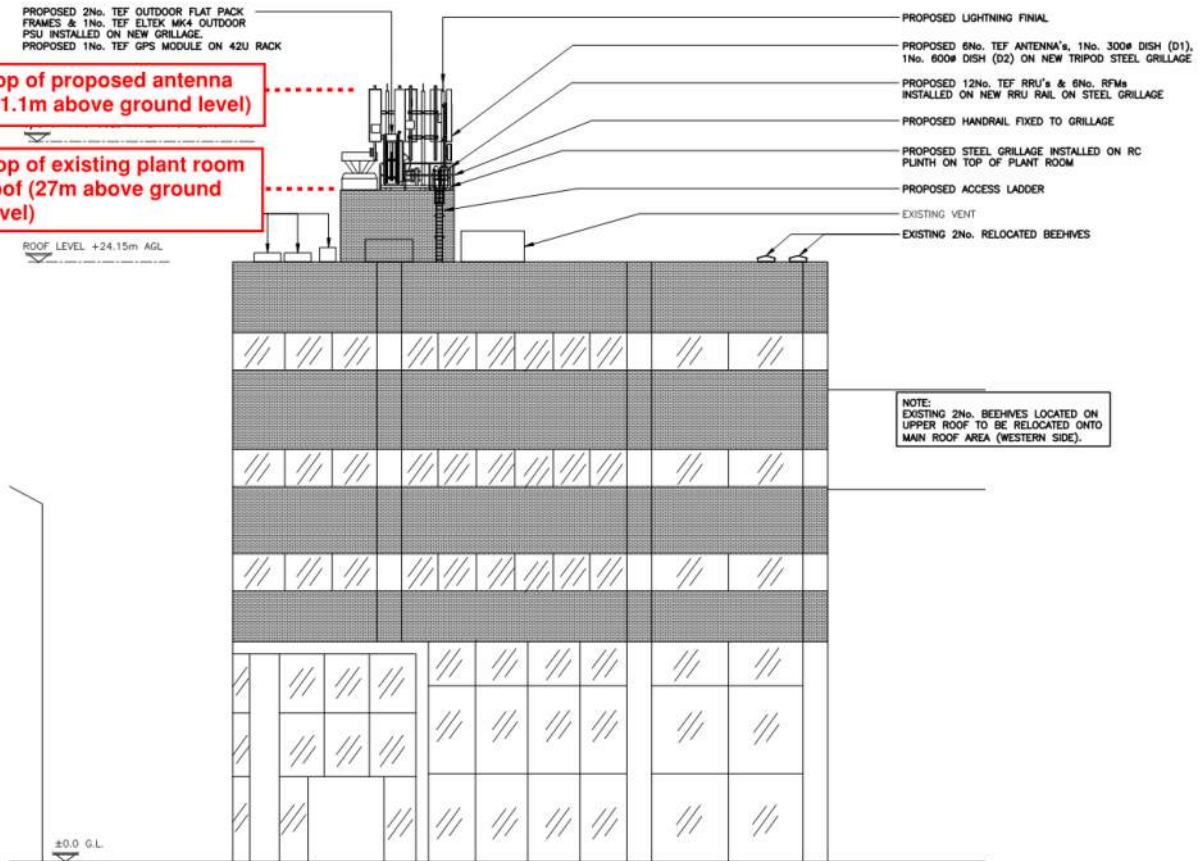


Image 4 – extract of proposed north-west (Shaftesbury Avenue) elevation drawing

1.5 2 x proposed dishes would also be mounted in lower positions on 2 of the tripod structures and various other ancillary equipment would be installed in positions below the antennas, mainly grouped together centrally on the plant room roof, including handrails, cable trays, steel grillage and roof access ladder (see Image 5 below). Some beehives currently located towards the front of the main roof on the western side would be relocated slightly further towards the western corner of the main roof as part of the proposal.

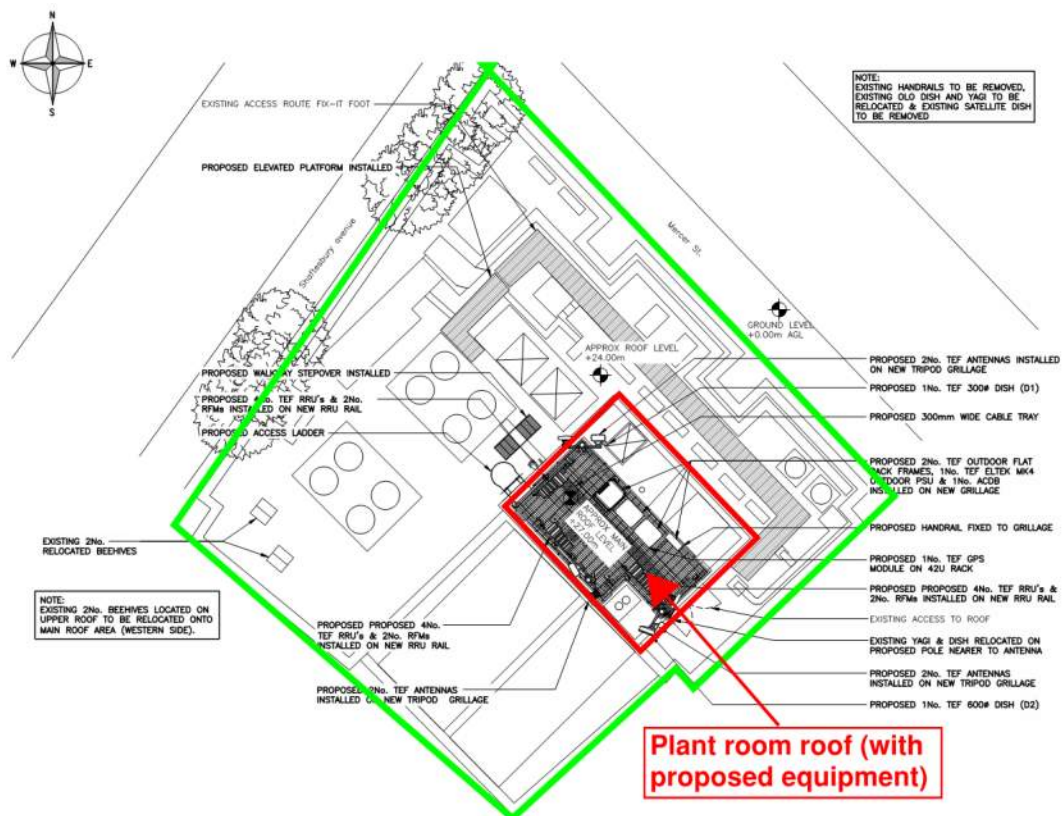


Image 5 – extract of proposed roof plan

2. Additional drawings/information

- 2.1 The original submission included existing and proposed drawings showing only the north-west elevation of the building. As such, the Council contacted the applicant on 03/12/2021 to request additional drawings showing all elevations. Drawings showing the north-east, south-east and south-west elevations were subsequently received from the applicant on 13/01/2022.
- 2.2 Following comments received during the consultation period from local amenity groups, the applicant provided a photomontage on 20/10/2022 in regard to possible GRP (Glass Reinforced Plastic or Polymer) screening options for the proposed equipment (ref. Photomontage - CTIL 235679_20_TEF 80187).

3. Assessment

- 3.1 The principal considerations in the determination of this application are:
- the design and impact of the proposals on the character and appearance of the host building, wider Seven Dials Conservation Area and within the settings of any nearby listed buildings; and
 - the impact of the proposal on neighbouring amenity.

4. Design

- 4.1 Local Plan Policy D1 (Design) establishes that careful consideration of the characteristics of a site, features of local distinctiveness and the wider context is needed in order to achieve high quality development in Camden which integrates into its surroundings. It advises that *'Good design takes account of its surroundings and preserves what is distinctive and valued about the local area.'*
- 4.2 Local Plan Policy D2 (Heritage) also states that the Council will only permit development within conservation areas that preserve and enhance the character and appearance of the area. The Seven Dials Conservation Area statement supports this when stating that their designation as a conservation area, *'provides the basis for policies designed to preserve or enhance the special interest of such an area.'*
- 4.3 Policies D1 and D2 are supported by Camden Planning Guidance (CPG) Design and Digital Infrastructure. In particular, CPG Design in Chapter 9 (Building services equipment) recognises that design considerations within the setting of any listed buildings and conservation areas should include the visual impact of building services equipment on the host building within this context.

Replacement base station

- 4.4 The National Planning Policy Framework (NPPF) in Paragraph 115 of Chapter 10 (Supporting high quality communications) requires Local Planning Authorities to *'keep the number of radio and electronic communications masts, and the sites for such installations to a minimum, consistent with the needs of consumers, the efficient operation of the network and to provide reasonable capacity for future expansion.'*
- 4.5 It is firstly noted that electronic communications apparatus has previously been granted permission at the site in 1999 (ref. PS9904574) and was subsequently installed in a similar position on the rooftop plant room of the host building. However, there is currently no existing active equipment in situ, and as such, the proposal involves the installation of new equipment at the site and the establishment of a new base station. The NPPF encourages the use of existing masts, buildings and other structures for new electronic communications capability (including wireless) wherever possible.
- 4.6 However, in this particular instance, an existing electronic communications base station located directly across the road on the rooftop of no. 125 Shaftesbury Avenue (see Image 1 above) is due to be decommissioned for reasons beyond the operator's control. Use of this existing base station

will, therefore, not be possible in the near future. Without a replacement site, there is a possible two-fold effect – the loss of coverage to the local area; and a greater disruption to the wider network as each cell connects to another to create a network. If one network cell is removed, the connection to the adjacent network cells is lost, leading to wider impacts than just the immediate consumers.

- 4.7 Additionally, there is a statutory requirement and licence obligation for Telefonica UK Ltd. to provide and maintain continued service to the local customers which is currently being provided by the soon to be decommissioned base station.
- 4.8 The proposed works, therefore, are to establish a new base station within the locality at the application site as a replacement site in order to provide continuous 2G, 3G and 4G network coverage, as well as, new 5G capability in the area. When considering the requirements of the NPPF, it is noted that though the proposal does involve the establishment of a new rooftop base station, it would replace an existing site already earmarked for decommissioning, and as such, the proposal would not result in any net increase in electronic communications sites within the local area.
- 4.9 With this in mind, it is also important to note that the existing site can only be switched off after any new approved base station is confirmed as being fully operational in order to avoid a loss of network coverage. This being the case, both sites would need to be operational in parallel for a short period of time until operational functionality is confirmed. There is, therefore, the potential for the existing site to remain active indefinitely or to operate longer than is necessary, especially as the existing base station is not situated within the red line boundary of the application site. As such, the Council would require that any approval should be subject to the completion of a Section 106 legal agreement, setting out a clear and agreed framework and timetable for the decommissioning of the existing site, as well as, for the timely removal of all associated apparatus in order to minimize the impact on the appearance of the building and local environment in accordance with the requirements of Local Plan policies D1 and D2.
- 4.10 Having established that it will soon no longer be possible to use an existing base station (no. 125 Shaftesbury Avenue) for the installation of electronic communications equipment, the NPPF requires in Paragraph 115 of Chapter 10 (Supporting high quality communications) that *‘where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate’*.

Design and appearance

- 4.11 The applicant’s supporting Supplementary Information Statement confirms that the proposal seeks to establish a new rooftop base station at the application site as a replacement for an existing base station located directly across the road (no. 125 Shaftesbury Avenue). The Statement acknowledges that very specific technical constraints have heavily influenced the design and positioning of the electronic communications equipment. For instance, larger antennae sizes are required for 5G coverage and to ensure correct signal conveyance. Additionally, ‘clipping’ can adversely impact on radio performance and service provision if signals from antennas ‘clip’ the building edges. In some cases, therefore, the most visually sympathetic design may not provide the best technical results or be ICNIRP compliant (the International Commission on Non-Ionizing Radiation Protection). The ICNIRP has developed exposure limits adopted by the UK Government in regard to public health – see ‘Public Health’ section below (Paragraphs 6.7 to 6.10).
- 4.12 The applicant acknowledges in their submission, the difficulty and sensitivity that has been required in finding an appropriate alternative site for the proposals given the high concentration of listed buildings in the area around the application site. While the applicant’s Statement does not suggest that the proposal would not have any harmful visual impact, it is argued that the design and positioning of the proposed equipment is the least visually intrusive option possible in terms of scale, bulk and height, balancing both the technical constraints associated with the

proposed equipment and the characteristics of the site itself. It is argued that any potential harmful visual impact on the host building or skyline has been mitigated, as far as is practicable, in order to minimise and limit the harm to the character and appearance of the host building, conservation area, and setting of any nearby listed buildings.

- 4.13 The host building comprises a 7-storey 1970's office building with basement car park and is modern in design terms. It is not identified as making either a positive or negative contribution to the character and appearance of the Seven Dials Conservation Area in which it is situated. While the building itself is not listed, it is positioned opposite a Grade II listed building, the former Saville Theatre (no. 135-149 Shaftesbury Avenue). There are also several listed buildings located to the east and south-east of the site in Earlham Street, Mercer Street and Monmouth Street.
- 4.14 The roof area of the host building consists of a main flat roof space measuring 24.15m in height above ground level with a roof parapet rising to approximately 0.5m above the main roof level. A plant room is located towards the rear south-east corner with a flat roof measuring 27.0m in height above ground level with a handrail which rises up by an additional metre and some existing equipment which sits approximately 1.5m above the plant room roof.
- 4.15 The 6 x proposed antennas would be mounted in pairs on 3 tripod structures and located in 3 positions around the edges of the plant room roof. The top of the antennas are proposed to rise to 31.1m in height above ground level to the top of the proposed antenna, so measuring 4.1m above the height of the plant room roof when mounted on the tripod structures. The majority of the proposed equipment would be grouped together centrally on the plant room roof in order to minimise any adverse visually impact.
- 4.16 The upper parts of the host building at the 5th and 6th floor levels are recessed further inwards from the floors below on both the north-west elevation (Shaftesbury Avenue) and the north-east elevation (Mercer Street) which forms the corner of building. A low parapet wall surrounds the main roof area. Tall mature trees are also noted as aligning the street immediately in front of the host building on Shaftesbury Avenue and corner junction with Mercer Street (see Images 6 & 7 below).



Images 6 & 7 – views along Shaftesbury Avenue looking south-west and north-east respectively

4.17 As a consequence of these factors, as well as, the combination of tall surrounding buildings, the close-knit urban context and the narrow width of the adjacent Mercer Street at the side, the existing plant room is not visible in street views of the principal elevation along Shaftesbury Avenue, nor from more immediate views of the side elevation near the junctions with Mercer Street (north-west end) and St.Giles Passage (located immediately across the road from the site to the north-west), particularly given the set-back position of the proposed equipment, centrally grouped together on the plant room roof, and positioned towards the rear of the main roof.

4.18 Therefore, taking into account the proposed height, positioning of the equipment on a confined area of the plant room roof and the other factors outlined above, the proposal would not be visible from viewpoints along Shaftesbury Avenue and the junctions with Mercer Street (north-west end) and St.Giles Passage located directly opposite.

4.19 Turning to consideration of other possible public vantage points from the south-east, it is recognised that the proposed equipment would be partially visible to some degree in a number of longer views, near the junction with Seven Dials and from the south-east end of Mercer Street, near the junction with Shelton Street (see Images 8 & 9 below).



Image 8 – view from Seven Dials



Image 9 – view from Mercer St (SE end)

4.20 The Seven Dials Conservation Area statement states that '*In an area of narrow streets open spaces provide unexpected and important contrasts and an opportunity to view the townscape. The most significant are; views towards and from Seven Dials; this included... the view north along Mercer Street to the Post Office Tower.*'

4.21 The relevant views in this case are fairly angled and at some distance from the rooftop of the host building with only parts of the proposed equipment likely to be visible; the presence of some building services equipment in situ on the plant room already being partially visible within some views. Taking this into consideration in combination with a number of high buildings and mature trees (which provide seasonal screening) that intervene within the foregrounds of these viewpoints, most notably considering views towards and from Seven Dials itself, it is considered that any parts of the proposed apparatus which would be visible would unlikely stand out markedly or be widely noticeable in this context, and as such, would not distract the eyeline from an appreciation of the relevant vistas.

4.22 Notwithstanding this, it is recognised that the addition of the proposed plant in an elevated position would add some partially visible clutter to this part of the rooftop. As stated previously,

though the host building is not identified as making either a positive or negative contribution to the local area in the Seven Dial Conservation Statement, it is nevertheless located within a designated conservation area, Seven Dials, which is a heritage asset. As such, the proposed antennas and equipment, by virtue of their size, scale and position, would result in a limited degree of visual harm to the character and external appearance of the building and conservation area when viewed from selected viewpoints, mainly towards the south-east of the site. However, any harm caused to the conservation area as a result of the proposal is considered to be limited and would be towards the lower end of 'less than substantial'.

- 4.23 While it is recognised that the host building itself is not listed, it is noted that there are several Grade II listed buildings located around the application site, most notably the Grade II listed, former Saville Theatre (currently an Odeon Cinema, 135-149 Shaftesbury Avenue) positioned opposite (see Image 10 below) and several Grade II listed buildings, mainly located towards the east and south-east of the site in Earlham Street, Mercer Street, Monmouth Street and Shorts Gardens.



Image 10 – view along Shaftesbury Avenue showing former Saville Theatre and host site

- 4.24 The proposal would not be visible within the setting of the former Saville Theatre given its roof level position, nor would it harmfully impact any architectural or historic significance of the listed building. Furthermore, the proposed works are not considered to introduce any significant adverse impact to the settings of any nearby listed buildings given the relative building heights and distances between them; existing screening provided by the built environment and mature street trees in situ; similarity of other modern additions, plant rooms and building services equipment present at roof level and in the skyline; the hidden (or partially hidden depending on the vantage point) nature and position of the existing plant room and proposed equipment within these settings; and the distances from street level to the proposed equipment and narrow street widths in some cases.

- 4.25 As such, any visual impact on the host building or skyline is considered would be mitigated as a result of the proposed development, as far as is practicable, in order to minimise and limit the harm to the character and appearance of the conservation area, and would not be harmful within the settings of any nearby listed buildings.

Screening options

- 4.26 Having already established that it is not possible to use the existing base station for the installation of electronic communications equipment, the NPPF requires in Paragraph 115 of Chapter 10 (Supporting high quality communications) that '*where new sites are required (such as*

for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate’.

4.27 Notwithstanding that the Council considers any harm as a result of the proposal to be towards the lower end of ‘less than substantial’, there would nevertheless be some limited harm to the character and appearance of the Seven Dials Conservation Area, and as such, the Council requested further details from the applicant in regard to possible ‘camouflage’ or screening options that might overcome or reduce the limited degree of harm caused by the proposed equipment. In response, the applicant provided a photomontage in order to show the likely impact of possible screening options on the host building and wider locality (Photomontage - CTIL 235679_20_TEF 80187).

4.28 The photomontage and options appear to show that the addition of GRP (Glass Reinforced Plastic or Polymer) screening or shrouds would likely introduce even more visible and prominent elements at roof level than under proposals where all equipment would remain unscreened, particularly given the additional height and width required to conceal or ‘camouflage’ the proposed antennas (as shown by some typical visualisations from Seven Dials as shown on Images 11 & 12 below).



Images 11 & 12 – Seven Dials - visualisations of proposal & proposal with GRP shrouding respectively

4.29 As a consequence, even when taking into account any benefit that shrouds might be intended to provide in terms of screening, the photomontage indicates that GRP screens would likely worsen the existing appearance of the building at roof level, by adding more conspicuous additional clutter to the rooftop due to its more solid and bulky appearance, much like an extension in height of the plant room itself.

4.30 There is also an additional concern as evidenced by a number of similar proposals previously approved for GRP shrouds within the borough which, when implemented, have been seen to have resulted in a mismatch of finishes and appearances at odds with the existing palette of materials and colours of the buildings. Any anticipated screening benefit from the proposed shrouds would

likely be further reduced under similar circumstances, and rather, would result in additional visual harm.

- 4.31 Overall, therefore, the possible screening options indicate that the equipment would likely appear as an excessively taller and more substantial structure than the proposed unscreened equipment, as well as, appearing significantly more visible and prominent against the skyline when viewed from some vantage points. Importantly, screening of this kind would unlikely overcome or reduce the limited degree of harm caused by the proposal to the character and appearance of the Seven Dials Conservation Area; harm which is considered to be towards the lower end of 'less than substantial' as defined within the NPPF.
- 4.32 The photomontage showing possible screening options was forwarded to both the Seven Dials Conservation Area Advisory Committee and Covent Garden Community Association on 25/11/2022 for their consideration and any comments. No responses have been received by the Council.
- 4.33 Considerable importance and weight has been attached during the assessment to the desirability of preserving or enhancing the character or appearance of Seven Dials Conservation Area and the settings of any listed buildings, under s.72 of the Planning (Listed Buildings and Conservation Areas Act 1990) as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

5. Planning balance

- 5.1 Given the assessment as outlined above in Section 4 of this report, it is considered that the proposed electronic communications equipment would result in a degree of harm to the character, appearance and historic interest of the Seven Dials Conservation Area. However, the overall harm is considered to be limited and towards the lower end of 'less than substantial'.
- 5.2 Local Plan Policies D1 and D2, consistent with Chapter 16 (Conserving and enhancing the historic environment) of the NPPF, seek to preserve and enhance designated heritage assets. The NPPF states in Paragraphs 202 that *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*

5G system and public benefit

- 5.3 The application submission generally recognises the high level of mobile phone use and ownership within the UK population and the overall acceptance of the benefits of mobile communications. The higher frequencies that the proposed 5G system uses in particular would serve to provide additional public benefits through greater bandwidth and capacity, along with improved connectivity, network enhancement and speed. It is generally argued that local communities could directly benefit from the proposed new and improved connectivity through enhanced social interaction and inclusion, improved local economy and services, and higher productivity, amongst other benefits.
- 5.4 The applicant's supporting Supplementary Information Statement states on Page 7 that the proposal *'will ensure that continuous 2G, 3G and 4G network coverage will be provided to the surrounding area and nullify any network impact caused by the decommissioning and removal of the existing installation. This proposal also incorporates a future-proofing element, allowing improved 5G coverage to be provided from this location as the latest advancement in mobile technology is rolled-out across the UK. It is therefore considered that any visual impact caused by this proposal is greatly outweighed by the public benefits associated with the development'*.
- 5.5 It is also noted that new 5G systems have a more complex radio requirement. Where previously 2G, 3G or 4G systems could be accommodated without the need for extra supporting structures or raising the antenna heights, 5G signals involve locating antennas closer to the building edge

and with raised antenna heights to avoid the 'clipping' effect of building edges given that 5G signals are more prone to the shadowing effect of adjacent buildings or existing structures.

- 5.6 Page 22 of the Statement states further that, *'When considering the benefits of the proposal, the public benefit from retained and improved connectivity and wireless communication services is a significant one. Not only will this proposal provide an excellent replacement network cell, but the development will provide cutting-edge 5G coverage to this area of London. The applicant considers that any perceived visual impact on the area, or skyline, has been mitigated, as far as practicable, through the best design available within the technical constraints of the site, and that this development will provide excellent public benefits – both in the present, and in the future'*.

Planning balance

- 5.7 In line with the NPPF, the Council supports the expansion of electronic communications networks, including telecommunications and high speed broadband. In particular, the Council will aim to keep the numbers of radio and telecommunications masts and the sites for such installations to a minimum consistent with the efficient operation of the network. Though use of existing masts, buildings and other structures is preferred, the applicant has demonstrated in this particular case the reasons for a new base station site following the decommissioning of an existing site nearby. As a consequence, it is noted that the proposal would not result in a net increase in electronic communications sites within the local area, so ensuring that the number of sites would be kept to a minimum in accordance with Council policies and the NPPF.
- 5.8 The Council is also aware of a number of recent appeals where significant weight has been given to the public benefits associated with 5G coverage and that this has outweighed the harm to heritage assets in some cases.
- 5.9 In this particular case, the Council acknowledges the importance of the application site and communications cell in providing coverage to a busy central London location which forms part of the West End and Theatre district, and is situated in close proximity to the Charing Cross Road (A40) which is a major transport route. The proposed application site is therefore recognised as being a key cell within the wider mobile network due to the high density of users and very high demand for network coverage.
- 5.10 Weighing the 'less than substantial' harm caused as a result of the proposed development against the demonstrable public benefit from providing continuous 2G, 3G and 4G network coverage in the area, as well as, improved connectivity and network enhancement provided by 5G coverage, it is considered, on balance, that the benefit to the public arising from the proposal outweighs the limited harm introduced to the character and appearance of the host property and wider Seven Dials Conservation Area.
- 5.11 Overall, therefore, and on balance, the proposed development accords with Chapter 16 of the NPPF which seeks to preserve and enhance heritage assets, as well as, with Policies D1 and D2 of the Local Plan and relevant Camden Planning Guidance, and is acceptable in design terms.

6. Amenity

- 6.1 Local Plan Policy A1 (Managing the impact of development) seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and by only granting permission to development that would not harm the amenity of communities, occupiers and neighbouring residents. This is supported by Camden Planning Guidance (Amenity) that requires the potential impact on the amenity of neighbouring properties to be fully considered and seeks for developments to be *'designed to protect the privacy of both new and existing dwellings to a reasonable degree.'*
- 6.2 Chapter 10 (Supporting high quality communications) of the NPPF in Paragraph 117 requires that all applications for electronic communications development should be supported by the necessary evidence to justify the proposed development. This should include:

- a. the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
- b. for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
- c. for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.

- 6.3 The applicant has provided supporting information confirming that the site is not located within 3km of an aerodrome or airfield, and as such, the Civil Aviation Authority and Secretary of State have not been notified.
- 6.4 Pre-application consultation correspondence was sent by the applicant to local Holborn & Covent Garden Ward Councillors (Cllrs. Awale Olad, Julian Fulbrook and Sue Vincent) and schools/colleges (London Film School, Saint Martin Art School and Turtles Nursery) on 05/10/2021 in regard to the proposed development. The applicant reports that no responses were received as part of this exercise.
- 6.5 Pre-application consultation correspondence was also submitted to the Council on 07/10/2021; however, the applicant declined to engage in the Council's pre-planning advice process as they considered that the matter needed to be progressed at the earliest possible opportunity via a full planning application.
- 6.6 In regard to possible noise impacts, no perceptible sound would typically be emitted from the proposed equipment. Equipment with the potential to cause some degree of vibration (such as, cabinets) would typically be of a low level and could be dampened by secure fixing so as to minimise any undue impact. There would be no impact on levels of privacy, outlook, daylight or sunlight to neighbouring premises from the proposed development.

Public health

- 6.7 The supporting information for the application includes an ICNIRP Declaration which certifies that the proposed equipment is designed to be fully compliant with the precautionary guidelines set by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). This is an independent body of scientific experts established by the International Radiation Protection Association. As such, the equipment is not anticipated to have any direct impact on public health.
- 6.8 Paragraph 118 of the NPPF states that local planning authorities must determine applications on planning grounds only and does not give scope for the local planning authority to determine health safeguards beyond compliance with ICNIRP guidelines.
- 6.9 Notwithstanding this, the Council notes various advice available on health issues which conclude that mobile phone base stations do not pose any health risks to people, including children. This advice includes amongst others, an independent report in 2012 by the Advisory Group on Non-Ionising Radiation (AGNIR) which concluded that there is no convincing evidence that exposure to radio frequency within the agreed guideline levels in UK causes health effects in adults and children.
- 6.10 Overall, therefore, it is concluded that there would be no adverse impact on residential amenity or public safety issues for any neighbouring residential occupiers. As such, the proposal accords with the relevant provisions of the NPPF as required, Camden Local Plan Policy A1 and relevant Camden Planning Guidance in this regard.

7. Other matters

Alternative sites

- 7.1 The applicant lists 11 sites which were considered as possible alternative locations by way of evidence that the possibility of erecting antennas on an existing building, mast or other structure has been explored. Consideration of each site's suitability was given in regard to the necessary characteristics for a communications base station, which is generally that it must be located in a suitable position in the overall network, introduce minimal harm to the locality in design and amenity terms, be capable of safe development and maintenance, have a flat roof with clear lines of connectivity with other base stations in the network and be structurally capable of safely accommodating any proposed equipment.
- 7.2 After due consideration, the 11 alternative sites were considered to be unsuitable and discounted for various reasons, including: an unsuitable roof design which would not be capable of accommodating the required installation; the building being too close to existing operational sites/cells so resulting in an overlap of coverage and interference; the site being too remote from intended cell coverage area; the coverage would be inferior and not fit for purpose given site characteristics; lack of internal capacity to host the required technologies; the building could not allow an installation that would be sympathetic to the architectural and special interest of the listed building/heritage asset; and lack of response from some building owners to requests to carry out investigative and viability surveys.
- 7.3 The application site, however, was chosen as it can meet the technical requirements and characteristics required to accommodate very specific technical constraints and the type of equipment necessary to provide continuous 2G, 3G and 4G network coverage, as well as, new 5G capability in the area, and wider network connectivity.
- 7.4 Unlike many of the possible alternative sites considered, the host site is noted as having already been used previously to accommodate electronic communications apparatus on the rooftop plant room of the host building (ref. PS9904574), though there is no active equipment currently in situ.
- 7.5 The applicant has confirmed that, when operational, International Commission guidelines will be met at the proposed site in accordance with the relevant provisions of the NPPF.

Planning obligations

- 7.6 The following planning obligation would be secured through a Section 106 legal agreement:
- A clear and agreed framework and timetable for the decommissioning of an existing site (no. 125 Shaftsbury Avenue) so that it is no longer in operational use and for the timely removal of all associated apparatus from the rooftop and any other parts of the site.

8. Conclusion

- 8.1 The proposal would accord with Policies A1, A4, D1, D2 and E1 of the Camden Local Plan 2017, the relevant Chapters and provisions of the NPPF, and the relevant guidance outlined above. On balance, the significant and demonstrable benefit to the public arising from the proposed development would outweigh the limited harm arising to the character and appearance of the host property, conservation area and any settings of nearby listed buildings. The proposal is not considered to have any adverse impact on residential amenity for any neighbouring residential occupiers nor raise any public safety issues.

9. Recommendation

- 9.1 It is therefore recommended, on balance, that planning permission be granted subject to conditions and the completion of a Section 106 legal agreement.

The decision to refer an application to Planning Committee lies with the Director of Regeneration and Planning. Following the Members Briefing panel on Monday 26th June 2023, nominated members will advise

whether they consider this application should be reported to the Planning Committee. For further information, please go to www.camden.gov.uk and search for 'Members Briefing'.



ApplicationNumber
Development Management
Regeneration and Planning
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Phone: 020 7974 4444

planning@camden.gov.uk
www.camden.gov.uk/planning

Application ref: 2021/5339/P
Contact: Tony Young
Tel: 020 7974 2687
Date: 16 June 2023

Telephone: 020 7974 **OfficerPhone**

Blue Clarity
54A Main Street
Newcastle
Co.Down
BT33 0AE

Dear Sir/Madam

DRAFT
FOR INFORMATION ONLY - THIS IS NOT A FORMAL DECISION
Town and Country Planning Act 1990 (as amended)

DECISION SUBJECT TO A SECTION 106 LEGAL AGREEMENT

Address:
164 Shaftesbury Avenue
London
WC2H 8HL

Proposal:

DECISION
Installation of electronic communications equipment on rooftop comprising 6 x antennas and 2 x dishes on tripod structures, fixed to steel grillage and plinth on plant room roof, and ancillary works.

Drawing Nos: Pack A drawings - 200 rev A, 201 rev A, 400 rev A, 500 rev A, 501 rev A, 502 rev A; Pack C drawings - 100 rev B, 101 rev B, 300 rev A, 301 rev B, 302 rev A, 303 rev A, 304 rev A, 305 rev A, 306 rev A, 307 rev A; Photomontage (CTIL 235679_20_TEF 80187) received 25/11/2022; Cover letter from Cornerstone (ref. CTIL_235679_20_TEF_80187) dated 19/10/2021; Site Specific Supplementary Information from Cornerstone dated 28/10/2021; ICNIRP Conformity Declaration and Letter (ref. 80187 / NGR E:530014, N:181123) dated 18/10/2021; Radio Planning and Propagation information from Cornerstone (V.6) dated 15/04/2021; Developer's Notice from Cornerstone dated 28/10/2021; Health and Mobile Phone Base Stations information from Cornerstone (V.4) dated 11/05/2021; Rooftop Deployment Constraints and Solutions information from Cornerstone received 01/11/2021; 5G Masts & Health Fact Sheet from Mobile UK received 01/11/2021.

The Council has considered your application and decided to grant permission subject to the conditions and informatives (if applicable) listed below **AND** subject to the successful conclusion of a Section 106 Legal Agreement.

The matter has been referred to the Council's Legal Department and you will be contacted shortly. If you wish to discuss the matter please contact **Aidan Brookes** in the Legal Department on **020 7 974 1947**.

Once the Legal Agreement has been concluded, the formal decision letter will be sent to you.

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans: Pack A drawings - 200 rev A, 201 rev A, 400 rev A, 500 rev A, 501 rev A, 502 rev A; Pack C drawings - 100 rev B, 101 rev B, 300 rev A, 301 rev B, 302 rev A, 303 rev A, 304 rev A, 305 rev A, 306 rev A, 307 rev A; Photomontage (CTIL_235679_20_TEF_80187) received 25/11/2022; Cover letter from Cornerstone (ref. CTIL_235679_20_TEF_80187) dated 19/10/2021; Site Specific Supplementary Information from Cornerstone dated 28/10/2021; ICNIRP Conformity Declaration and Letter (ref. 80187 / NGR E:530014, N:181123) dated 18/10/2021; Radio Planning and Propagation information from Cornerstone (V.6) dated 15/04/2021; Developer's Notice from Cornerstone dated 28/10/2021; Health and Mobile Phone Base Stations information from Cornerstone (V.4) dated 11/05/2021; Rooftop Deployment Constraints and Solutions information from Cornerstone received 01/11/2021; 5G Masts & Health Fact Sheet from Mobile UK received 01/11/2021.

Reason:

For the avoidance of doubt and in the interest of proper planning.

- 3 The colour of the proposed antennas and dishes shall match as closely as possible the background, or the part of the building to which it is attached. All supporting mounts, poles or structures shall be designed to be as unobtrusive as possible, and should be painted the same colour as the antennas.

Reason: In order to minimize the impact on the appearance of the building and local environment in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

- 4 The apparatus hereby approved shall be removed from the building as soon as reasonably practicable when no longer required.

Reason: In order to minimize the impact on the appearance of the building and local environment in accordance with the requirements of Policies D1 and D2 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between

dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).

- 2 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 3 All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at www.camden.gov.uk) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted. Information/drawings relating to the discharge of matters covered by the Heads of Terms of the legal agreement should be marked for the attention of the Planning Obligations Officer, Sites Team, Camden Town Hall, Argyle Street, WC1H 8EQ.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

Yours faithfully

Supporting Communities Directorate