

[REDACTED]

Sent: 14 February 2017 14:41
To: Planning
Cc: [REDACTED]
Subject: LPA REF. 2016/7123/P: 15 METRE TELECOMMUNICATIONS MAST , SITE
ADJOINING WEST HAMPSTEAD STATION, BLACKBURN ROAD, LONDON NW6 2LS

Importance: High

For the attention of Charles Thuaire

Dear Planning Solutions Team

We are instructed by Builder Depot Ltd., the occupier of 14 Blackburn Road NW6 1RZ, as well as the owner of that property Hampstead Asset Management Limited, to submit representations to your Council in respect of this proposal.

We accordingly refer to

- ∞ the Site Notice in this matter dated 31 January relating to a 21 day public consultation period expiring 21 February 2017;
- ∞ your Delegated Report confirming “late validation of the application” notwithstanding a 15 February deadline for decision in terms of the Permitted Development Order, thereby truncating the above-mentioned timescale below the minimum period specified for public consultation in Planning Practice Guidance; and
- ∞ a Decision Notice dated 8 February 2017, which we are not certain is a Draft as suggested in the Report or a Notice already delivered.

Since we have been unsuccessful in reaching Mr. Thuaire by telephone to determine the actual position in this matter we think it best to submit our comments today in advance of the above-mentioned 15 February deadline.

Whereas we fully support your Council’s recommendation to refuse the application for Prior Approval on the grounds of appearance, we are concerned that no reference is to be found anywhere in your report or in the Notice to the likely impact of the proposal on our clients’ site, in particular on extant planning permission PWX0202103/R2 dated 6 January 2004 relating thereto.

The omission is particularly surprising since our clients’ property immediately adjoins the application site and is indeed closer to it than any of the other sites mentioned in your report.

You will recall the above permission is for a mix of housing, offices and storage. The Conditions Precedent having been duly discharged, the requisite financial contributions paid under the associated S.106 Agreement for public highway works and education needs, and a material operation carried out in the form of piling, the permission was thereby implemented. Your Council duly reconfirmed under ref. 2011/6129/P that

“as works have commenced on site, this permission remains extant.”

The proposal’s impact on the scheme when completed is therefore a major material consideration. You suggest the mast is sufficiently far away from residential properties, and not directly oriented towards them, so as not to add significantly to a perception of a risk to health. The applicant’s drawing no. 401

revision D clearly shows two antennae oriented west to directly overlook our clients' site, thereby maximising that perception on the part of future occupiers.

Whereas you rightly state "it is not possible for objections to be raised" to the proposal on any grounds other than siting and appearance of the equipment, "such as health", the perception of risk to health is a material and well-established ground for refusals at appeal of proposals for telecommunications masts, including references to the High Court.

Examples include Jodie Phillips v SoS & Others 22/10/2003, where the Court found that the duty required of an applicant to look for the best, rather than a merely acceptable, site included recognition of public concerns about health implications.

Similar considerations must apply to the O2 Centre Car Park site included in Camden Site Allocations as part of the Local Development Plan, in terms of which development will be "expected to optimise the potential of the site to provide new housing..... while minimising potential conflicts between residential and other uses".

The document furthermore states that

*"Improvements to the legibility, community safety and attractiveness of existing links between West End Lane and Finchley Road would be a **key objective** (our emphasis) in resolving some of the design failings of the current development."*

We suggest the siting of a 15m telecommunications mast directly adjoining the major existing link between Blackburn Road and the O2 car park, far from assisting those key improvement objectives, is likely to harm them.

For all these reasons we do not consider that, in the words of your report, "the siting in itself here would be acceptable".

In the light of the procedural anomalies that have occurred with this proposal, kindly advise whether a decision has yet to be issued or has already been delivered. If the latter, we must ask you please to advise us if and when an appeal is submitted so that on that occasion we have sufficient time to deal with it.

Many thanks and best wishes.

Eli Abt BArch (Rand) RIBA MRTPI



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