

**Telecommunication Appeal**

**For**

**EE LTD & ESN (EMERGENCY SERVICES NETWORK)**

**AT**

**63 Loudoun Road  
London  
NW8 0DQ**

**APPEAL STATEMENT**

**Date: 28/02/2018**

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Agents Ref: 79902

**Contents:**

**1.0 Introduction**

**2.0 Procedural Matters**

**3.0 The Appeal Site / Context**

**4.0 Consideration / Justification**

**5.0 Conclusions**

1.0 **Introduction:**

1.1 This Appeal seeks the Inspector to consider the proposal in line with Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015. The application is for siting and design only, no other aspects are to be considered. The proposal description states “Installation of a 12.5m high telecommunication mast with ancillary equipment.”

1.2 The Prior Approval procedure acknowledges that the principle of the development is not an issue for consideration and thus the siting, appearance and design of the pole are the key central elements for consideration. In the reasons for refusal, as given by Camden Council in their decision notice 2017/7095/P of the 5<sup>th</sup> February 2018, they state that:

*“1. The proposed mast and its associated cabinets, by reason of their design, height and location, would be overly dominant in the streetscene, creating visual clutter which would detract from the character and appearance of the streetscene and the Alexandra Road Conservation Area and would cause harm to the setting of the adjacent Grade II listed building, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.”*

1.3 The justification, reasoning and decision for the refusal of the Planning Application, by Camden Council are the subject of this appeal.

1.4 The Grounds for Appeal are:

- The proposal is in accordance with the National Planning Policies (NPPF)
  - The proposal is in accordance with *London Borough of Camden Local Plan 2017 Policies D1 and D2.*
- As outlined in this supporting statement the applicant is confident that the proposed telecommunications mast and ancillary infrastructure would not be detrimental to the amenity of the area, and that suitable and robust evidence has been provided to demonstrate the need for this location.

## **2.0 Procedural Matters**

- 2.1 This appeal follows pre and post application discussions with the LPA. EE and ESN have only taken the steps to appeal 2017/7095/P following an extensive process of working with the Council which has not gleaned the vital approval needed to provide the expected tunnel coverage as detailed in the submitted SSSI and for the wider NW8 post code area. The DSA (Designated Search Area) covers South Hampstead within Camden Councils area. It is evident that the applicant has tried to work with the LPA in an extremely constrained cell search area to find a location that could be supported that works from a radio coverage perspective.

### **3.0 The Appeal Site / Context:**

- 3.1 The appeal site is located to the rear of the pavement area alongside Loudoun Road in the South Hampstead area of Camden. The equipment and pole are located to the west of the road and pavement with all elements being located on the adopted hardstanding. The proposed installation and cabinets do not restrict the pavement and thus pedestrian, push and wheel chair access is fully maintained and not impeded in any aspect. The equipment if approved would be located to the rear edge of the pavement, in the position detailed in the drawings as submitted. The location has been carefully chosen to ensure there are limited direct views of the installation from the residential properties to the north, east and south. The specific location is set against a mature tree and wall to limit the visual implications. The location and position of the proposal is identified as sensitive (Article 2 (3) land) and is circa 45 metres North West of a Grade II Listed Building but is very urban in character. The site is designated as being in the settlement boundary, with urban uses to the north, east, south and west. The land designation that this site is located in is considered to be a material consideration. Camden Council does not have a specific telecoms policy so the NPPF is of relevance. The residential / low scale commercial makeup of this area severely limits the available/suitable sites, together with the wider Alexandra Road Conservation Area further west and south. It is vital from the outset to consider how constrained the cell search area is. The proposal is required to give direct coverage into the tunnel mouth but also has the benefit of giving improved coverage to the wider area. The mast has been located in the optimum location to give this vital line of sight (LOS) coverage into the tunnel mouth for both EE and more importantly the ESN (Emergency Services Network). Radio coverage plots have been supplied to illustrate this point. Placing the mast in any other location would not give coverage into the mast and thus there is no potential to move the equipment away from the listed building (which is a distance away) that the LPA have cited as one of their reasons for refusal. The applicant has acknowledged the importance of the Article 2(3) land from the outset and for this reason a replica telegraph pole at the modest height of only 12.5m has been proposed.
- 3.2 The proposed telecommunication equipment (designed to facilitate 2G, 3G and 4G sharing at the site (EE Ltd and ESN) is essential for the operator to bring optimum telecommunications / mobile broadband services to the area. The works (being a 12.5m mono pole and ancillary infrastructure) would be located to the edge of the pavement and thus, and as previously stated, there are no access issues in that the cabinets are free standing on the edge of the pavement (leaving the full width of the existing pavement clear for pedestrians, wheelchair users etc.). In addition, the cabinet has been located so that it does not affect pedestrians, wheelchair users or visibility lines for motorists pulling out of adjoining roads. Access inside the cabinet is however, deliberately restricted for the security of the installation. Access to the development is by definition limited to the operator and its authorised agents. All efforts to work with Camden Council have been sought before the submission of this appeal. The applicants have endeavoured to engage with the Council throughout the planning process and instigate meetings to discuss the proposal.
- 3.3 The proposed installation has been designed to be shared between EE Ltd and ESN (Emergency Services Network) with also the potential for H3G LTE. The present proposal could accommodate additional users at any point in the future (H3G LTE) with minimal physical alterations to the installation.
- 3.4 As stated previously robust pre-consultation was conducted by the applicants' agent. This robust process included pre-application with the LPA and further consultation with the local Ward Councillors. The pre-application process invites Camden Council and other key stakeholders to meet to discuss this and all proposals that are submitted. In densely populated areas moving the mast might placate one objector but will create resistance from other elements of the public who now feel the mast has moved too close to their residents. The cell search area is dominated by residential properties and all efforts have been made to locate this installation that minimises its impact as far as

possible. In relation to perceived potential health risks associated with the installation of the proposal, documentation has been provided to confirm compliance with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and as such these concerns cannot be considered in the determination of this application.

- 3.5 The need for the pole to be a minimum of 12.5 metres high is essential. The height of the pole has to be sufficient to enable local provision and clear surrounding buildings and provide line of sight into the tunnel that requires service coverage. The pole has been designed and positioned to remain as discreet as physically possible. The installation has to be high enough to ensure suitable coverage within the cell and provide connection between cells, in this instance to clear surrounding clutter (being 2 storey buildings). If the pole were to be lower than that proposed, there would be significantly limited coverage as the cell could not effectively communicate with other cells and the wider network, meaning the level of service expected would be compromised. To clarify, the Local Planning Authority is required to undertake a balancing exercise. The balance is the visual impact weighed against the demonstrable need (the ESN is of strategic importance to the UK), technical requirements of the installation and availability of a suitable and available site. This balance is a well-known and most important matter for the determination of telecommunications applications and appeals. Camden Council is fully aware of this requirement. However, for its own reasons the council ignored that requirement in its determination of this Prior Approval Application. Indeed, there is a lack of any balance in the officer's delegated report. In the appellants' view, had the council carried out the required weighing of harm against public benefit as required by NPPF paragraph 134 it would have concluded the balance was overwhelmingly in favour of granted Prior Approval for the radio base station.
- 3.6 The current scheme has sought to mitigate any perceived detrimental effects. In the reasons for refusal the Council is concerned that an additional base station in the area would be overly dominant in the street scene, creating visual clutter which would detract from the character and appearance of the street scene and the Alexandra Road Conservation Area and would cause harm to the setting of the nearby listed building (which is not adjacent as claimed). This is clearly contested. The discounted options section has clearly illustrated that the only viable solution has been nominated.

Discounted Options

As can be seen by the information below other sites were looked at within the Cell Search Area but these were discounted for the reasons identified in associated text.

<b>Site Name and address</b>	<b>National Grid Reference</b>	<b>Reason for not choosing</b>
Rooftop antenna at 154 Loudoun Road Flats	E: 526399, N: 184023	Potential for rooftop installation on eight storey block of flats offering an excellent line of sight over the desired coverage area. This option as discounted as the investment company who have financed the property will not allow telecoms installations on the building.
Streetworks monopole outside 81 Loudoun Road	E: 526363, N: 184083	A Streetworks option at this location was discounted due to the underground services that would prevent the development of a root foundation.
Rooftop Antenna at Oaklands House	E: 526342, N: 184086	Potential for a rooftop installation on a five storey building offering an excellent line of sight in to the railway tunnel. This option was discounted from an ICNIRP perspective due to

the proximity of the balcony to the rooftop area. The Site Provider was approached regarding a face mounted installation but has not confirmed any interest in the proposal despite numerous approaches.

Streetworks monopole at Alexandra Road	E: 526473 N: 184014	This option was discounted due to being unable to find a build solution that would adequately support the root foundation on a railway bridge.
Rooftop antenna on Langhorne Court	E: 526582 N: 184027	Discounted due to being unable to achieve a line of sight in to the railway tunnel.
Rooftop antenna on Farjeon House	E: 526601 N: 184144	Discounted due to being unable to achieve a line of sight in to the railway tunnel.
Rooftop antenna on Nalton House	E: 526483 N: 184167	Discounted due to being unable to achieve a line of sight in to the railway tunnel and due to there being no direct access available on to the rooftop.
Rooftop antenna Langtry Walk	E: 526296 N: 184009	Discounted due to being unable to achieve a line of sight in to the full width of the railway tunnel and due to the heritage status of the building.

#### **4.0 Consideration / Justification:**

##### **Policy / Guidance Consideration:**

##### **4.1.0 Local Plan Policy:**

- 4.1.1 The decision notice as issued by Camden Council states the development would be overly dominant in the street scene, creating visual clutter which would detract from the character and appearance of the street scene and the Alexandra Road Conservation Area and would cause harm to the setting of the adjacent Grade II listed building and that this would be contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017. These Policies are highlighted below and will be addressed in this supporting statement.

##### Policy D1 reads:

*The Council will seek to secure high quality design in development. The Council will require that development:*

- a. respects local context and character;*
- b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
- d. is of sustainable and durable construction and adaptable to different activities and land uses;*
- e. comprises details and materials that are of high quality and complement the local character;*
- f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
- g. is inclusive and accessible for all;*
- h. promotes health;*
- i. is secure and designed to minimise crime and antisocial behaviour;*
- j. responds to natural features and preserves gardens and other open space;*
- k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*
- l. incorporates outdoor amenity space;*
- m. preserves strategic and local views;*
- n. for housing, provides a high standard of accommodation; and*
- o. carefully integrates building services equipment.*

*The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

##### *Tall buildings*

*All of Camden is considered sensitive to the development of tall buildings.*

*Tall buildings in Camden will be assessed against the design criteria set out above and we will also give particular attention to:*

- p. how the building relates to its surroundings, both in terms of how the base of the building fits in with the streetscape and how the top of a tall building affects the skyline;*
- q. the historic context of the building's surroundings;*
- r. the relationship between the building and hills and views;*
- s. the degree to which the building overshadows public spaces, especially open spaces and watercourses; and*



*t. the contribution a building makes to pedestrian permeability and improved public accessibility.*

*In addition to these design considerations tall buildings will be assessed against a range of other relevant policies concerning amenity, mixed use and sustainability.*

#### *Public art*

*The Council will only permit development for artworks, statues or memorials where they protect and enhance the local character and historic environment and contribute to a harmonious and balanced landscape design.*

#### *Excellence in design*

*The Council expects excellence in architecture and design. We will seek to ensure that the significant growth planned for under Policy G1 Delivery and location of growth will be provided through high quality contextual design.*

#### Policy D2 reads:

*The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.*

#### *Designated heritage assets*

*Designed heritage assets include conservation areas and listed buildings.*

*The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a. the nature of the heritage asset prevents all reasonable uses of the site;*
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;*
- c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- d. the harm or loss is outweighed by the benefit of bringing the site back into use.*

*The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.*

#### *Conservation areas*

*Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'.*

*In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.*

#### *The Council will:*

- e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;*
- f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*

- g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and*
- h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.*

#### *Listed Buildings*

*Listed buildings are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. To preserve or enhance the borough's listed buildings, the Council will:*

- i. resist the total or substantial demolition of a listed building;*
- j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and*
- k. resist development that would cause harm to significance of a listed building through an effect on its setting.*

#### *Archaeology*

*The Council will protect remains of archaeological importance by ensuring acceptable measures are taken proportionate to the significance of the heritage asset to preserve them and their setting, including physical preservation, where appropriate.*

#### *Other heritage assets and non-designated heritage assets*

*The Council will seek to protect other heritage assets including non-designated heritage assets (including those on and off the local list), Registered Parks and Gardens and London Squares.*

*The effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset.*

- 4.1.2 The installation of the monopole and ancillary infrastructure, as detailed in the submitted Planning Application, is to facilitate the upgrade and rollout of the 'Next Generation' of telecommunication services and mobile broadband. The dimensions of the monopole would be such that it can ensure site sharing and that multiple operators (EE Ltd and ESN) can deliver the requisite service from one installation.
- 4.1.3 In addition, the 4G installation is required to ensure mast sharing can be facilitated (as prescribed by policy) and remove the need for any future additional telecommunications masts in this location.
- 4.1.4 The opinion of Camden Council that the development would be contrary to the objectives of Policies D1 and D2 is challenged.
- 4.1.5 Contrary to the opinion of Camden Council, it is considered that the proposed development would accord with all elements of these policies. The fact that the design and siting of the installation is one that is accepted in such an urban context is key (it is a replica telegraph pole and thus is a standard feature through the UK). The proposal is of an appropriate design to ensure service delivery, yet is a static and vertical structure that does not visually jar or harm amenity or the setting of the conservation area. All efforts to keep the mast out of and away from potentially sensitive receptors has been adhered to. Furthermore, in a deliberate move to respect the character of the location, a 12.5m monopole of slim line dimensions has been proposed, and if the Inspector is minded to approve the installation, the colour of the monopole can be coloured to one deemed appropriate to the location (to further minimise its'

appearance and any perceived obstruction on amenity). The mast presently is proposed in a brown colour to mimic a telegraph pole.

- 4.1.5 For the proposal to be 'detrimental' to amenities of the area and residents the scheme would need to be 'unpleasant' or 'harmful' to the wider environs. In this instance it is noted that the site is well located with a backdrop of utilitarian design flats / shops that provide partial screening and is suitably distant from residences to be physically discreet.

For clarity, the development seeks to minimise the mass and scale of the monopole as much as possible, yet still deliver the service and operational needs of site sharing. It is accepted that any development constitutes a change, but in this instance the change proposed would not be unpleasant or harmful, and would not be so detrimental or alien to the street scene in this urban location as to warrant a refusal on the grounds of adverse effect on amenities (it would be similar to numerous similar structures in this location and such designs and installations are accepted and regularly seen items of street furniture in comparable urban locations across the UK). The applicant is confident that the Conservation Area would be both preserved and indeed enhanced (with improved coverage). As stated above there is no scope to move the mast outside of the Conservation Area given the extremely limited constraints of what the proposal strives to achieve.

- 4.1.6 Furthermore, it is worth noting that as the site is in an area designated for particular protection for its character (Conservation Area) the positioning to provide coverage of the NW8 area and tunnel entrance in particular has been considered. As stated throughout this appeal statement all efforts have been made to pull the installation as far away from residential properties and sensitive designations / buildings as possible whilst allowing for provision of the necessary digital coverage. The fact that the scheme seeks to provide a slim line design that is partially screened from most views is not considered to be so damaging or sufficiently obtrusive as to justify the stance taken by Camden Council in this instance.
- 4.1.7 In light of the above reasoning, it is suggested that the development does accord with the requirements of Policies in the Development Plan as it would be no more an unpleasant or harmful feature than the street lights that run along the road and would be similar in vertical appearance to the street lighting columns and the height of the flat blocks in the locale. Furthermore, the monopole would not jar with or disrupt the setting of the listed building sufficiently to be perceived as harmful. In this case, with the monopole being seen against the blank brick elevation of the flats / shops, it would as a minimum conserve and maintain the character of the area and the setting of the identified heritage asset, so ensuring accord with paragraph 132 of the NPPF. It is imperative to emphasise the benefits of this singular structure as it would provide an enhanced level of electronic communication service for transient users and residents alike. The supporting statement gives further details on the benefits of the proposal.
- 4.1.8 Provision of this infrastructure, in an area identified as being lacking in connectivity, would accord with the objectives above. As identified this area suffers from poor access to 3G and 4G services to the detriment of local residents and businesses. It is vital to consider that a new Street Works option is required in this location. From a planning perspective the sequential approach should be followed for all telecoms sites regardless of their location and this has been rigidly adhered to with this proposal. Operators are committed to provide coverage and improve capacity. Operators' need for a new base station derives from a sequential approach to a site selection process.

1. Upgrading an operator's own existing base station(s);
  2. Using existing telecommunications structures belonging to another code system operator, i.e. mast sharing;
  3. Co-location or site sharing alongside existing telecommunications development
  4. Installing a base station on an existing building or tall structure.
- If 1-4 unavailable, the only viable option is

## 5. Erection of a new ground based mast in street environment.

In this instance there is no possibility for the alternative options identified above and thus a new SW (Street Works) option has to be progressed. If there were options for any site sharing, upgrading an existing mast, roof top or co-location these would have been taken forward thus avoiding the need for a new SW proposal. The type of pole that the applicant has proposed is the optimum design solution that can take both operators and the height at 12.5m is the very lowest that works effectively for both operators. Given the siting preference, the location proposed is deemed acceptable and appropriate. If the pole was reduced lower than 12.5m the installation would not give adequate coverage for the Operators. The cabinets are required to serve the operator and these have been kept to a minimum. The cabinet does not form part of the Prior Approval planning application process or this appeal as there are Permitted Development (without Prior Approval) however, all efforts are taken to keep these to an absolute minimum. Both the original planning submission and this appeal statement robustly assess how the proposal fits within the surrounding area including its planning designations and assesses the local and national policies. The National Policy section is assessed again below.

### **4.2.0 National Policy / Guidance – National Planning Policy Framework (NPPF)**

4.2.1 National policy with regard to Telecommunications development is found within the NPPF. Contained within the NPPF, the following is of importance during deliberations:

4.2.2 Paragraph 42 states that:

*Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.*

The improved service the upgrade of the existing permitted development would deliver could make a direct contribution to the delivery of economic growth, in a sustainable way, as well as enhancing local facilities and services (via better communication).

4.2.3 Paragraph 43 states that:

*In preparing Local Plans, local planning authorities should support the expansion of electronic communications networks, including telecommunications and high speed broadband. They should 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. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.*

The proposed development would utilise a site to provide for multiple users, so negating the need for subsequent new installations in the area and ensuring accordance with the objectives of the NPPF. The proposal would very much accord with this objective and negate the need for a demonstration 'to the satisfaction of the Council' in relation to the search for other sites.

The attempt to provide discreet development at the site, using the recommended sequential approach (as evidenced in the original submission) which accords with the objectives of paragraph 43 of the NPPF, demonstrates the operator's attempts to address the lack of requisite cell coverage in the area, which would if allowed improve network coverage considerably with minimal negative effect on the visual amenity of this residential location.

4.2.4 Paragraph 45 states that:

*Applications for telecommunications development (including for Prior Approval under Part 24 of the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.*

*This should include:*

- *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 or technical site; and*
- *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 on non-ionising radiation protection guidelines; or*
- *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.*

4.2.5 In addition to the consideration given to the reasons for refusal, it is also noted that material consideration should be given to developments that contribute to the delivery of sustainability (which these cabinets and monopole would do). Such an objective needs to inform decisions, and is a requirement detailed in the 'Letter to Chief Planning Officers: Planning for Growth' dated 31<sup>st</sup> March 2011.

## **5.0 Conclusion**

### **5.1.0 Reasoning and Summary**

- 5.1.1 In light of the above it is considered that the installation of the street level cabinets and monopole would not be contrary to, but would contribute to the achievement of the Policy objectives of Camden Council Local Plan and the NPPF in that it would not be to the detriment of visual amenity or result in “visual clutter”, would not constitute significant harm to heritage assets and would further the delivery of sustainable development through intelligently managed and considered change.
- 5.1.2 We consider the development complies with government guidance where the underlying aim is to provide an efficient and competitive telecommunication system for the benefit of the community while minimising visual impact.
- 5.1.3 The current application has been submitted following a thorough site selection process as evidenced by the SSSI document. The applicant’s agent has sought engagement with key stakeholders to locate a site that would work for both parties but this process has been ignored once the second Prior Approval submission was lodged.
- 5.1.4 We consider any perceived impact on amenity the site may have will be outweighed by the many benefits that telecommunications bring to the economy and community. As detailed above, the development meets the requisite criteria and standards, as well as contributes and accords with the ‘Planning for Growth’ objectives. As such, it is respectfully requested that the appeal be allowed. Were Camden Council to suggest conditions in the event that the appeal is allowed it is noted that the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. In the absence of evidence or justification to the contrary, the applicant finds that additional conditions should not be imposed. If however, the Inspector deems that conditions on approval are required these will be welcomed.