

Ground A

(a) **that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;**

Irrespective of this particular case, it is a matter of fact and law that telecommunications apparatus can be installed, replaced and altered on a rooftop under permitted development rights. In the main, this allows apparatus to a certain height and a certain amount of antenna systems. Hence, without knowing how the installed apparatus breaches the limitations set out in Part 16 of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 – subsequently known as the GPDO, the appellant does not yet understand the breach and hence what planning permission should be sought for, other than for all of the apparatus on the roof – as this is what the LPA are seeking the removal of.

The appellant was only partway through the proposed build; apparatus additional to which is installed is also proposed and remains uninstalled. The development was installed under permitted development rights granted by Part 16 of the GPDO. This uninstalled apparatus is still required and so, whilst it would make sense for any planning approval granted under Ground A to include those elements as well, we understand that this may not be possible. The submitted drawings show both the installed apparatus (built) and the proposed (unbuilt) apparatus.

The installed apparatus can be viewed at any site visit – however, it is substantively 6 pole mounted antennas, three equipment cabinets, three pole mounts and ancillary development.

It is considered that the installed development is in compliance with the development plan and that no material considerations outweigh that compliance. The material considerations, as they relate to this development e.g. the NPPF, also point to planning approval being granted.

Development Plan

The development plan for this appeal includes the London Plan (2016) and the Camden Local Plan (2017).

London Plan 2016

The extant London Plan contains the following policy which is the most relevant for this appeal

POLICY 4.11 ENCOURAGING A CONNECTED ECONOMY

Strategic

A The Mayor and the GLA Group will, and all other strategic agencies should

a facilitate the provision and delivery of the information and communications technology (ICT) infrastructure a modern and developing economy needs, particularly to ensure: adequate and suitable network connectivity across London (including well designed and located street-based apparatus); data centre capability; suitable electrical power supplies and security and resilience; and affordable, competitive connectivity meeting the needs of small and larger enterprises and individuals

b support the use of information and communications technology to enable easy and rapid access to information and services and support ways of working that deliver wider planning, sustainability and quality of life benefits.

Policy 4.11 and its supporting paragraphs shows the clear support for telecommunications infrastructure through the London Plan – and the benefits of the communications networks its supports.

Camden Local Plan 2017

Access to high quality communications networks is now seen as vital both socially and economically. Despite the Camden Local Plan being adopted in 2017, it does not include a criteria-based telecommunications policy as encouraged by the NPPF. Telecommunications development brings with it specific locational and technical constraints which general development policies find difficult to deal with. In this case the LPA have considered it expedient to take enforcement action based on a general development policy D1.

Street-based poles can often not get enough height to reach upper floor levels or clear buildings and roof-based apparatus can sometimes not reach nearby streets below due to shading and clipping of the radio waves by the buildings themselves. Because of this, most urban infrastructure is a balance between radio coverage and visual impacts – this is especially so in some of the London Boroughs which have both a very high-demand and a high proportion of heritage assets e.g. Camden is 50% Conservation Area.

In non-designated areas, a good starting point for gauging harmful visual impacts is the limits of permitted development i.e. that which can be built with no need for any type of planning permission (be that full planning or prior approval). For a building of this height and in a non-designated area, Part 16 of the GPDO allows for up to 5 antenna systems (potentially up to 30 pole-mounted antennas) up to a height of 8m above the roof level. This would have far greater impacts than the proposed 12 antennas (and 2x transmission dishes) which only exceed the height of the highest part of the building by 1.28m. Under permitted development rights, where installed, they could be up to 6m taller. Six equipment cabinets are also proposed and can be installed under permitted development rights, without the need for planning consent or prior approval.

In terms of the apparatus installed on the roof of Southfleet, the limited number of antennas installed and their very limited height when read against the highest point of the building combine to ensure that the visual impacts of the antennas are limited – this is compared to the height and number that could be installed under permitted development rights.

Most importantly, in terms of perceived wisdom expressed though national policy (see more below) and numerous development plans, regarding the siting of new telecommunications apparatus, siting on buildings and siting by sharing existing apparatus and infrastructure are considered to be by far the best options for minimising minimises impacts. That is not to say there will not be localised impacts, but that the overall impacts over the area where coverage is given are minimised.

NPPF

This is the Government's planning policy and Section 10 - Supporting High Quality Communications - considers development such as the communications apparatus on the roof of Southfleet. It states:

112. *Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).*

113. *The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. 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*

The importance of communications can be seen from the opening line of para 112. This paragraph also encourages planning policies to support the provision of communications infrastructure such as that on the roof of Southfleet. As discussed above, unfortunately Camden do not have a telecommunications policy in their development plan and have used a general development policy to support the expedience of issuing the Enforcement Notice. The importance of sharing infrastructure and using existing buildings can be seen in para 113 – the development on the roof of Southfleet both shares infrastructure and uses an existing building.

The appellant is aware of the recent appeal decision APP/X5210/C/18/3199851 & APP/X5210/C/18/3201008. And agree that the varied roof profile which Southfleet offers, does lend itself to the installation of communications perhaps more than other buildings with only a single level, horizontal roof profile.

Looking at the above main policy considerations for the development, the apparatus installed (and proposed) can be seen to be in compliance. On that basis the appellant considers that the appeal should be allowed, planning permission granted and the installed apparatus should remain *in situ* and the proposed apparatus should be installed.

Appendices:

- Planning drawings showing installed apparatus – ‘existing’, and apparatus as yet uninstalled – ‘proposed’