

**(b) that those matters have not occurred;**

The LPA have not stated what the *specific* matters are which constitute the breach of planning control. If this is subsequently set out by the LPA, the appellant may be able to provide an elaboration on these matters i.e. a breach in the limitations of Part 16 of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 – subsequently known as the GPDO. We have appended this legislation.

However, the basis of the Notice is the installation of apparatus “*without planning permission*”. As set out in ground (c) below, the GPDO is however, a general grant of planning permission. The apparatus has therefore been installed with planning permission and as such the matters have not occurred. The reason that this is the case, is that the installed apparatus falls within the limitations set out in Part 16 – this can be seen from the exposition below.

Class 16 allows the installation, alteration and replacement of apparatus on a building through A.1-(2) – paragraphs (a) to (f) and sets a limit on the volume of equipment housing through A.1 – (9). These rights apply to Code Operators. Telefónica<sup>1</sup>, Vodafone and Cornerstone are all Code Operators and therefore enjoy these rights.

A.1 – (2)

In this case the host building is 18.5m high at the point the antennas are located. This means that the relevant sections of A.1-(2) are (a), (b) and (e).

The following paragraphs of A.1-(2) are **not** relevant because:

(c) – only relevant for buildings under 15m in height - **the building is over 15m**

(d) – only relevant for buildings under 15m in height and/or where antennas are located below 15m - **the building is over 15m and the antennas are located over 15m**

(f) – only relevant for buildings within Article 2(3) land - **the building is not within Article 2(3) land**

The development as constructed complies with the relevant paragraphs of A.1 –(2) because of the reasons set out below.

Development is permitted if:

(a) – the apparatus does not exceed 10m in height (taken by itself) – **it does not, it measures 4.28m**

(b) – the apparatus does not exceed the highest part of the building by 8m – **it does not, it exceeds it by only 1m (the highest part being the tower at approx. 21.8m)**

(e) – the apparatus is located in a building over 15m and the antennas are located at a height greater than 15m however

(i) – relevant for dish antennas - no proposed dish antenna exceeds 1.3m – **the largest dish is 0.3m**

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<sup>1</sup> Also known as TEF

(ii) in regard of 'other antennas'

(aa) relevant if the development exceeds 5 antenna systems<sup>2</sup> – **only one antenna system is currently present on the building – operated by TEF (the Vodafone apparatus remains uninstalled)**

(bb) relevant if any one antenna system is operated by more than one Code Operator – **the antenna system is operated by only one Code Operator (TEF)**

(iii) relevant where the building is listed or is a scheduled monument – **the building is neither listed nor a scheduled monument**

A.1 – (9)

This permits equipment housing if:

(a) It is ancillary to the other apparatus installed i.e. antennas. **The installed equipment housing is ancillary to the other telecommunications apparatus**

(b) The cumulative volume of a rooftop does not exceed 30 m<sup>3</sup> – **the cumulative volume of the installed apparatus is only 3.22m<sup>3</sup> (that being the installed TEF racks x2 and the Eltek PSU)**

- TEF Rack#1 – 0.75x 0.82x1.8m = 1.107m<sup>3</sup>
- TEF Rack #2 – 0.75x0.82x1.8m = 1.107m<sup>3</sup>
- Eltek PSU – 0.7x0.82x1.8m = 1.033m<sup>3</sup>

(c) It is not within Article 2(3) land or an SSSI (subject to (a) and (b)). **The apparatus is not within Article 2(3) land or an SSSI**

In addition, there is a condition on the GPDO - A.2-(1)(a) which requires that the development should, as far as practicable be sited and designed to minimise its impacts on the host buildings. Taking into account coverage requirements, ICNIRP requirements and the design of the host building, the proposed apparatus is designed and sited as far as practicable to minimise impacts.

It is the case that a separate application with the apparatus enclosed in glass-fibre reinforced plastic (GRP) *could* be taken forward. However, that GRP element would require planning permission (it not being telecommunications apparatus) and as such could not be captured by this condition which relates only to these elements which are permitted development.

Appendices:

- Part 16 GPDO
- Planning Drawings showing installed apparatus (labelled existing)

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<sup>2</sup> Defined in the GPDO (A.4) as "antenna system" means a set of antennas installed on a building and operated in accordance with the electronic communications code