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10 June 2020

Our ref JBHF/ASDM/ROGN/CAP/O23523.00096

Dear Sirs

Objection Letter to planning application with reference 2020/2015/P

Matilda Apartments, 1 Saint Giles High Street, London, WC2H 8AG (the “Property”)

We act for Central Saint Giles General Partner Limited, the freeholder owner of the Property (the “**Owner**”).

The Owner received notice dated 07 May 2020 from Clarke Telecom acting on behalf of Cornerstone Telecommunications Infrastructure Limited, Telefonica UK Limited and Vodafone Limited (the “**Developers**”) of their intention to submit a planning application to construct development comprising of the installation of 10 antennas, 2 transmission dishes, equipment cabinets and ancillary development thereto (the “**Proposed Development**”).

The planning application for the Proposed Development was registered by Camden Council (the “**Council**”) on the 20 May 2020 under reference 2020/2015/P (the “**Planning Application**”).

We write to object to the Planning Application on behalf of our client. We enclose a further, accompanying objection prepared by Renzo Piano Building Workshop (**RPBW**) together with an impact study (the **RPBW Study**) detailing the negative impact of the Proposed Development on the Property. RPBW are a world leading architectural firm and were the architects who designed and worked with the Council to secure planning permission reference 2005/0259/P dated 4 October 2006 (the **Planning Permission**) for the

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Property. As the RPBW Study makes clear, RPBW made considerable effort to create a building that was harmonious with its historic surrounding.

1. Executive Summary

The Proposed Development would have a significant adverse impact on townscape and the setting and heritage of the Property and therefore planning harm exists. As the RPBW Study makes clear, the Proposed Development would harm the Property and its setting.

The Proposed Development also conflicts with planning policy.

Due to the harm and policy conflict, more appropriate alternatives for the Proposed Development must be considered as a material consideration when determining the Planning Application. In this regard:

- (1) the Planning Application fails to sufficiently consider appropriate alternative schemes; and
- (2) the Albion House Application (herein defined) is a more suitable alternative for the replacement installation in planning terms.

In addition, the Developers have failed to comply with various local validation requirements and therefore the Council have unlawfully validated the Planning Application. Furthermore, it is unlikely that the Council have complied with temporary legislative procedures that are in effect as a result of Co-vid 19¹. The Council should not determine the application as a result of these failings.

In the event that the procedural flaws are addressed, we strongly object to the Planning Application on behalf our client and request that the Planning Application be refused.

2. The Albion House Application

We are aware that the Developers also submitted a planning application for the “*Installation of 9 antennas, 5 transmission dishes, 3 equipment cabinets and ancillary development thereto*” at Rooftop at Albion House, 55-59 New Oxford Street, London, WC1A 1BS which was validated on the 29 April 2020 under reference 2020/1649/P (the “**Albion House Application**”). This is a material consideration.

At section 2 (Pre-Application Check List) of the Developer’s Albion House Supplementary Information Statement dated 19 May 2020 (the “**Albion House SIS**”), the Developers state that Albion House is one of three sites required by the Developers to replace coverage for the existing site at Castlewood House, which has been decommissioned.

The other two sites are the Property and 100 New Oxford Street. As of today’s date, we have not been notified that a planning application has been submitted for 100 New Oxford Street.

We discuss below whether all three sites are required or whether they are, in fact, alternatives. Alternatives are relevant considerations in the determination of planning applications where the proposal conflicts with planning policy and/or planning harm exists.

¹ The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020

² Attached as Appendix 1

3. Impact of the Proposed Development

The RPBW Study identifies the importance of the Property's setting in the design process for the Property, and sets out how RPBW made considerable effort to design the Property to be harmonious with its historic surrounding. Page 6 of the RPBW Study identifies the approach to the design of the roof of the Property, and ensuring that all plant was hidden and that there was no external plant on the roof. This was a key element of the sympathetic design.

The RPBW Study also identifies the importance of the treatment of the roofscape, including the creation of a fifth façade at the roof known as the Flying Carpet, which is not designed to carry any load. The RPBW Study makes it clear that the Proposed Development would deeply modify the appearance of the Property from street level and from the surrounding buildings, would modify its relationship with the urban environment and would have a major impact on the overall outline and height of the Property. These impacts are unacceptable in planning terms.

The importance placed on this design process and the roofscape, and the importance of the setting of the Property, is reflected in the planning conditions attached to the Planning Permission. Conditions 8 and 10 of the Planning Permission, which provide ongoing safeguards for the Property and the surrounding area, provide the following:

Condition 8: No meter boxes, flues, vents, pipes, satellite dishes or other attachments not shown on the approved drawings shall be fixed or installed on the external faces of the building without the prior written consent of the local planning authority.

Condition 10: No plant, ventilation, air conditioning, extraction or other such equipment shall be provided other than where specified on the plans without the prior written consent of the local planning authority.

The Planning Application is wholly inadequate in its assessment of the Proposed Development in light of these important considerations. It:

1. is not accompanied by a design and access statement, heritage assessment or townscape assessment;
2. does not include any meaningful analysis of the Property or the Property's setting; and
3. does not include a proper assessment of the visual impact of the Proposed Development. It is not supported by elevations or drawings showing each viewpoint of the Proposed Development.

The RPBW Study includes northern and western views of the Property to demonstrate the harm caused by the Proposed Development, as well as a view of the roof to demonstrate the harm to the roofscape. The northern view is an important view in particular, given that this is the view of the Grade 1 listed Church of Saint Giles in the Field, and page 6 of the RPBW Study identifies the importance of this view in the design of the Property.

4. The Proposed Development and Alternative Sites at Albion House and 100 New Oxford Street

The Courts have confirmed that the evaluation of alternative sites can be a material consideration when determining a planning application. Where a proposed development is in conflict with planning policy (see Section 5) and/or planning harm exists (see section 3), then it is necessary to consider whether there is a more appropriate site elsewhere.

The Supplementary Information Statement version dated 19 May 2020 submitted for the Planning Application (the “**Developers’ SIS**”³) contains a statement to the same effect as that contained in the Albion House SIS - that the Property is one of three sites required by the Developers to replace coverage for the existing site at Castlewood House.

However, contrary to the statement included within the Developers’ SIS, the rest of the Planning Application (and indeed the rest of the Developers’ SIS) makes it clear throughout that “*a replacement installation*” (i.e. one replacement) is required to replace the existing installation at Castlewood House. For example, the Developers’ SIS consistently refers to “*The replacement installation*”. No reference is made to the need for three replacement installations or to the applications in respect of Albion House and 100 New Oxford Street.

The Developers expressly state in section 4 (Technical Justification) of the Developers’ SIS and the Albion House SIS that no further installations will be proposed within the locality (on approval of either the Planning Application or the Albion House Planning Application). Both the Developers’ SIS and the Albion House SIS include the following: “*The proposed scheme relocates an existing established radio base station installation. This permanent resited and upgraded installation will provide additional coverage and capacity for Vodafone **without the requirement for any further installations to be proposed within this locality***” [emphasis added]. In addition, section 3 (Proposed Development) of the Developers’ SIS and the Albion House SIS state “*This will **avoid the need for added proliferation of new masts within the surrounding area***”. This puts it beyond doubt that only one replacement installation is required and justified. The Albion House site and the 100 New Oxford Street site must therefore be considered as true alternative sites for the Proposed Development.

We set out in section 6 of this letter below why the Developers have failed to assess the alternative sites and show that there is no appropriate alternative site for the Proposed Development that would not have the adverse impacts of the Proposed Development.

The Albion House Application is a more appropriate alternative for the replacement installation in planning terms. No material objections have been made to the Albion House Application, and we consider that this alternative is better in planning terms and does not cause the same planning harm that the Proposed Development causes. In particular, Albion House does not have the same architectural merit as the Property and so the replacement installation does not cause the same harm to Albion House or its setting.

5. The Proposed Development in addition to Rooftop at Albion House and 100 New Oxford Street

³ Attached as Appendix 2

If, on the other hand, the Developers are promoting the Planning Application in addition to the proposed installations on the other two sites (which for the avoidance of doubt does not appear to be the case), the Proposed Development conflicts with national policy as it does not keep the number of electronic communications masts, or the sites for such installations, to a minimum. Paragraph 113 of the NPPF states that: “*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*” (our emphasis added). Therefore, the Planning Application should be refused on the basis of being contrary to the NPPF.

Further, paragraph 115 of the NPPF states that: “*Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development*”. There is absolutely no evidence provided to justify the Proposed Development in addition to the other two sites. There is evidence provided to justify one site, but not two or three sites. Therefore, the Planning Application must also be refused for this failure.

Whilst the NPPF does state that local planning authorities should not question the need for electronic communication systems, it is important to note that, on the Developers’ own planning case, such need has not been established. In the Albion House Application, the Developers state that that the Albion House development will mean that there is no requirement for any further installations to be proposed within this locality and will avoid the need for added proliferation of new masts within the surrounding area. This demonstrates that there is no need in operational terms for the Proposed Development as one of three new sites.

6. Alternative Sites – Section 5 of the Developers’ SIS

The Developers recognise in the Developers’ SIS (section 5, page 16) that their licence obligations, the NPPF and the Code of Best Practice require an assessment of alternatives.

The Developers also identify that they must undertake the sequential approach to siting and design options as set out in the Code of Best Practice. They state that they have followed that sequential approach. However, this is not correct because they have not adopted any form of sequential approach to the assessment of alternatives.

Section 5 of the Developers’ SIS lists seven alternative sites that were allegedly considered but provides no explanation as to the methodology used for selecting them as alternative sites. It is our view that the Developers have not considered the alternative sites accurately or in full. A site selection process requires a comprehensive, structured approach that establishes criteria for selecting and assessing sites and prevents sites from being discounted based on a single or irrelevant factor. Consequentially, it is highly likely that there is an appropriate alternative site for the Proposed Development that would not have the adverse impacts (discussed at section 3) of the Proposed Development.

The approach to the first five alternatives identified in the Developers’ SIS is wholly inadequate. None of them appear to be genuine alternatives and no explanation has been provided as to why these sites are considered as alternatives. These alternatives sites are: Castlewood House, St Giles in the Field, Centre

Point, Fairgate House, and Burton. The final two alternatives are addressed in more detail below because they have not been discounted without full consideration and are actually true, and better, alternatives.

On the first five alternatives that the Developers claim to have assessed, we note the following:

1. Castlewood House: The Developers state that this site is not available, and so it is not an alternative at all. It is disingenuous to include this as an alternative.
2. St Giles in the Field Church: This is not a high building (and so does not follow the sequential approach) and is a grade 1 listed church. It is abundantly clear that this would never have received planning approval or been pursued by the Developers, and this option does not follow the sequential approach. It is disingenuous to include this as an alternative.
3. Centre Point: The Developers state that this site is listed and not available, and so it is not an alternative at all. It is disingenuous to include this as an alternative.
4. Fairgate House: This is not a high building (and so does not follow the sequential approach) and is not technically feasible. It is disingenuous to include this as an alternative.
5. Burtons: This is a listed building and the Developers also state that it is not technically feasible. It is disingenuous to include this as an alternative.

In relation to the final two alternatives, the following extract is taken from section 5 of the Developers' SIS:

<i>Site</i>	<i>Site Name, Address, NGR, Site Type</i>	<i>Reason for not Choosing</i>
<i>RT</i>	<i>55 New Oxford Street, London, WC1A 1BS ("Alternative Site 1") NGR E: 530057 N: 181418</i>	<i>A site in this location would provide significant improvement in coverage due to the operators existing network configuration. As such, it would not provide the necessary coverage to the target coverage area for Telefonica and Vodafone. It has therefore been discounted for this reason.</i>
<i>RT</i>	<i>64-76 New Oxford Street, London, WC1A 1BS ("Alternative Site 2") NGR E: 530025 N: 181455</i>	<i>A site in this location would provide significant improvement in coverage due to the operators existing network configuration. As such, it would not provide the necessary coverage to the target coverage area for Telefonica and Vodafone. It has therefore been discounted for this reason.</i>

The Developers' reasoning for not choosing Alternative Site 1 or Alternative Site 2 is that "A site in this location would provide significant improvement in coverage due to the operators existing network configuration. As such, it would not provide the necessary coverage to the target coverage area for Telefonica and Vodafone. It has therefore been discounted for this reason." The reasoning for rejecting Alternative Site 1 and Alternative Site 2 makes no sense at all. The Developer has confirmed that Alternative Site 1 and Alternative Site 2 would "provide a significant uplift in coverage," and therefore a logical conclusion would be that these sites would provide suitable alternatives for the Proposed Development given "the significant uplift in coverage". It is not clear why Alternative Site 1 and Alternative

Site 2 should be discounted, and this undermines the entire site selection process that purports to underpin the Planning Application. They are, in fact, viable alternatives to the Proposed Development.

The Planning Application contains no assessment of Alternative Site 1 and Alternative Site 2 that demonstrates that the Proposed Development is better in planning terms than the development at Alternative Site 1 and Alternative Site 2.

The Albion House Application has been submitted in relation to property *55-59 New Oxford Street, London, WC1A 1BS* while the discounted Alternative Site 1 is listed as *55 New Oxford Street, London, WC1A 1BS*. It is not clear whether the Albion House Application and Alternative Site 1 relate to two different sites, or if they are the same site and the Developers have discounted Alternative Site 1 while simultaneously applying for planning for it. We have reviewed both site addresses and deduce that the Developers have contradicted their findings by discounting Alternative Site 1 for the Proposed Development but conversely including the same site as part of the Albion House Application.

This demonstrates that there are in fact at least two alternatives, Alternative Site 1 and Alternative Site 2, that not only achieve the objective of replacing apparatus but actually achieve a significant uplift in coverage. A third alternative site at 100 New Oxford Street may also be a better alternative, but this has not been assessed at all.

Therefore, the Planning Application must be refused on the basis that there are alternatives that can better achieve the outcome of the Planning Application without causing the significant harm and impact as set out in section 3.

Prematurity

Given the pending application for Albion House, which is capable of meeting the Developer's need, the Planning Application is premature and should be refused.

7. Validation Requirements and Procedural Flaws

The Council may require that applications include such additional information as they deem necessary⁴. The Council's local information requirements were published in July 2018 (the "**Council's Local Requirements**"). As such, the Planning Application could only have been validated by the Council if it complied with the Council's Local Requirements⁵. The Planning Application fails to comply with the Council's Local Requirements in several respects and therefore should not have been validated by the Council.

First, there are several absent application documents. The Planning Application for the Proposed Development affects the setting of conservation areas as acknowledged in the Developers' SIS. However, the Developers have failed to include a Heritage Statement. In addition, the Council's Local Requirements state that an acoustic report should be submitted where the proposed development includes the installation of plant. No such acoustic report has been submitted. This compliance failure is exacerbated by the fact that one of the objection letters states that there is already excessive noise from the roof of the Property which will be worsened as a result of the Proposed Development. A sustainability report is also missing from the Planning Application which is required by the Council for all development. Finally, a telecommunications

⁴ Art.11(2)(e) Development Management Procedural Order 2015 (the "**DMPO**") and s.62(3) Town and Country Planning Act 1990

⁵ Art. 11(6)(b) DMPO

report is required for all infrastructure including masts. Such report has not been provided as part of the Planning Application and is not sufficiently detailed in the Developers' SIS.

In addition, we have not had sight of the mandatory statement certifying that the Internal Commission guidelines have been met. Along with missing section plans and inadequate photographs there are various insufficiencies with the Planning Application which is not in compliance with the Council's Local Requirements. As such and in accordance with legislation,⁶ the Council has unlawfully validated the Planning Application.

Temporary Amendments to the DMPO

Temporary amendments⁷ to the DMPO came into effect on 14 May 2020.

New provisions inserted at Art.15(7) DMPO 2015 require that if the Council is not able to give notice of the application in one or more of the manners normally prescribed then new provisions apply. The Council must then *"take reasonable steps to inform any persons who are likely to have an interest in the application of the website..."*⁸ on which the application is published (i.e. its planning portal). The persons who are likely to have an interest in the application must include *"the persons who live or work in, or otherwise have a direct connection with, the area in which the proposed development is located."*⁹ Reasonable steps that are taken by the Council may include use of *"social media or electronic communications"* and *"must be proportionate to the scale and impact of the development."*¹⁰ Only when the Council complies with these requirements is it taken to have discharged its obligation to give requisite notice under the DMPO 2015¹¹ in so far as such notice was not given because the Council was not able to do so due to the pandemic. ***Please confirm how the Council has complied with the temporary amendments to the DMPO.***

The Council must ensure that all procedural rules have been satisfied in full. This is particularly important given that a number of parties have an interest in the Planning Application due to its impact, the number of people living and working in the area and the number of people who visit the area. This is reflected in the six objections that the Planning Application has received thus far. In addition, due to the significant impact of the Proposed Development on design, townscape and heritage factors (as noted within the RPBW Letter) it could be argued that the Council has not taken reasonable steps to inform any persons who are likely to have an interest in the application of the website on which the application is published. ***Due to this, please confirm how the Council have complied with the temporary amendments to the DMPO.***

In addition, while we are aware that the site notice for the Proposed Development has been published on the Council's online planning portal, the site notice indicates that any owner or tenant who wishes to make representation must write to the Council. No alternative means of contacting the Council are given. Due to the current pandemic, it may be that Council postal hours are restricted (due to reduced resources onsite) therefore increasing the risk that vital representations may be missed.

⁶ Art. 11(6)(b) DMPO

⁷ The Town and Country Planning (Development Management Procedure, Listed Buildings and Environmental Impact Assessment) (England) (Coronavirus) (Amendment) Regulations 2020

⁸ Article 15(7B)(b)

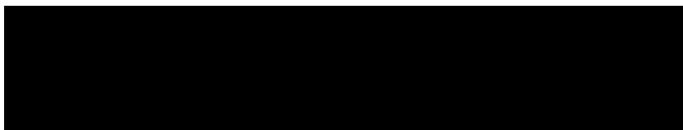
⁹ Article 15(7D)(a)

¹⁰ Article 15 (7D)(b)

¹¹ Article 15 (7C)

Please confirm that the Council will not proceed with determining the Planning Application in light of these validation flaws and procedural issues.

Yours faithfully



CMS Cameron McKenna Nabarro Olswang LLP