

Application No:	Consultees Name:	Received:	Comment:	Response:
2020/5996/P	Samir Khanal	24/05/2021 10:28:26	OBJ	I am writing to voice my strong objection to planning application reference: 2020/5996/P for its legislative breaches, significant adverse visual impact, destruction of skyline views from Joan Court and poorly understood long-term health implications of high-intensity radiofrequency, particularly on the children who live and attend nurseries/schools in the immediate vicinity of this site.

In terms of application handling it should be noted that, for an application of this obvious prominence, Camden have not properly consulted:

#### Poor consultation practice

First, it is deeply concerning that not a single resident in Joan Court (directly across the street from Weech Hall) was aware of planning application 2020/5996/P. There are no public notices anywhere on Fortune Green Road, either on the Weech Hall side or Joan Court side. The proposed application should have been publicised in a manner that would reasonably bring it to the attention of the majority of persons living in the vicinity of Weech Hall. This is not the case and as this conduct breaches Article 15(4) in Part 3 of the Town and Country Planning (Development Management Procedure) Order 2015, it constitutes unlawful consultation.

The lack of publicity is evidenced by the mere eight objections submitted to date and only days away from the end of the consultation period. This reflects the lack of transparency and failure of Camden Council not only to adhere to its legislative obligations but also to abide by HM Government Code of Practice on Consultation.

Consultation poor practice further extends to Cornerstone and Telefonica UK Ltd, as evidenced in their submitted documentation (file: 23704120\_TEF\_81552 Consultation Letter to pre-school 09.11.20.pdf). They undertook pre-application consultation with the Montessori Nursery adjacent to Joan Court. As stated in Camden Planning Guidance: Digital Infrastructure March 2018 [paragraph 14], consultation must be with the "relevant body where a mast is to be installed near a school or college". It is highly questionable whether the local manager of a nursery that forms one of four hundred others under the company Busy Bees Childcare ([www.busybeeschildcare.co.uk](http://www.busybeeschildcare.co.uk)) constitutes the "relevant body", and good practice would necessitate that pre-application consultation be undertaken with the parent company that is equipped to consider and response to an important consultation. This conduct is indicative of an attempt by Cornerstone and Telefonica UK Ltd to circumvent open, honest and transparent consultation.

#### Planning objections:

#### Significant visual impact

The proposed structure including its supporting scaffold would cause an unacceptable and significant adverse

Application No:    Consultees Name:    Received:

Comment:    Response:

visual impact to Fortune Green residents. The telecommunications mast would be wholly visible from the North, South, East and West aspects, both at ground level and from surrounding residential buildings, and its impact and intrusiveness cannot be limited. The significant visual impact is compounded by the low height of Weech Hall (12.15 m above ground level, four storeys). As such the effect of the visual damage to the local area and skyline views that many residents enjoy in Fortune Green would greatly outweigh any benefits from improved telephonic coverage.

The dramatic impact of such an imposing structure on Fortune Green has been grossly misrepresented by Cornerstone and Telefonica UK Ltd in their artistic submissions of the appearance of this telecommunications from street level (file: E340535\_CITL\_237041\_20\_TEF\_81552\_VF\_NA\_PHOTOMONTAGE-compressed.pdf). It is disingenuous in its representation of the mast; the mast has been coloured white and set (conveniently) against a large white cloud. Furthermore, the photo montages do not adequately represent the visual impact of this proposal, showing only perspective views from ground level near Weech Hall. Despite these efforts by Cornerstone and Telefonica UK Ltd, the mast remains an undisputed large, imposing and unsightly structure that would be visible from many surrounding locations and by the road-side residents of Joan Court, all of whom have balconies overlooking Fortune Green Road with beautiful views and views of the London skyline. A effect on these views would constitute a loss of amenity. A telecommunications mast on Weech Hall would additionally disfigure the building itself.

The detrimental visual impact is supported by the Local Planning Authority (Camden Council), as evidence by their pre-application comments documented in file: Weech Hall SSSI v2 (Redacted).pdf. It is clear that the Council is aware of the significant visual impact and detrimental effect on local residents of permitting the installation of this telecommunications mast: "This block is merely 4 storeys in height and therefore visual impacts are considered to be significant" and "the proposed bulk to the roof top is unacceptable".

Therefore, in light of the above and the documented evidence of Camden Council of the significant and unacceptable visual impact of the telecommunications mast, it is then only reasonable and rational that the Council takes heed of its own concerns and refuse planning permission for application 2020/5996/P.

#### Effect on Hampstead Cemetery and Conservation Areas nearby

Although Hampstead Cemetery, across the street from Weech Hall, is not a conservation area, it is a place of historic importance and as such holds an almost equivalent status. The proposed telecommunications mast, 19.5 metres above ground level, will be visible from Hampstead Cemetery and impact on the character and serenity of this historic site. Additionally, Weech Hall is in close proximity to the Redington and Frogna Conservation Area,

Submission in supporting evidence of successful appeals to the Planning Inspectorate by Cornerstone and Telefonica UK Ltd

I note, a recently upheld appeal was submitted in supporting evidence (file: 240295 APPEAL DECISION

Application No:    Consultees Name:    Received:

Comment:    Response:

3246710.pdf). This decision relates to the installation of telecommunications equipment on an existing rooftop enclosure in Eton, and not to the installation of a telecommunications mast rising to 19.5 metres above ground level. In addition, the antennas would be hidden within two structures that would be coloured and textured so to appear as chimneys. A second upheld appeal was submitted, file: Winchester NTQ.pdf, which relates to the installation of a ground level telecommunications mast. Therefore, both appeals are inconsequential to the current proposal by Cornerstone and Telefonica UK Ltd, and appear to represent thinly veiled intimidation to support planning application 2020/5996/P.

#### Legislative breach (GDPO)

I understand the requirement to expand telecommunications infrastructure, however, this planning application is in breach of paragraph A1(2)(c) of Part 16 of the Town and Country Planning (General Permitted Development) Order 2015 (henceforth, GDPO), which does not permit installation, alteration or replacement of a mast on a building which is less than 15 metres in height, if the mast will be within 20 metres of the highway. Weech Hall is 12.15 metres above ground level (a mere four storeys high) and far less than 20 metres away from Fortune Green Road. Correctly, there are legal restrictions upon the height and location of electronic communications apparatus permitted under Class A of Part 16, in recognition of public safety and the adverse visual impact of telecommunications infrastructure – of which, planning application 2020/5996/P breaches.

The proposal is that of a telecommunications base station consisting of a 7 metre stub tower supporting three Telefonica antennae, reaching a total height of 19.5 metres above ground level. The stub station supports antennae that will be transmitting and receiving radio waves, as such the entire structure constitutes a radio mast as definitively determined by Justice Lang and supported by the Secretary of State for Communities and Local Government, in *Mawbey R v Lewisham Council* [2018] EWHC 263. In this judgement, the Secretary of State submits that the broad definition of ‘mast’ in the GDPO is intended to capture all support structures, whether building-based or ground-based [paragraph 45]. Furthermore, the industry is led by a Code of Best Practice on Mobile Network Development in England, that contains a general definition of a ‘mast’ as ...”a freestanding structure that supports antennas at a height where they can transmit and receive radio waves”.

Importantly, the interpretation, reasoning and judgment of Justice Lang was subsequently upheld in the Court of Appeal by Lord Justice Lindblom in *Mawbey R and Ors v Cornerstone Telecommunications Infrastructure Ltd* [2019] EWCA Civ 1016. As Lord Justice Lindblom summarised in his judgement: “Thus the task of a local planning authority in determining whether a particular structure is a “mast” within the reach of paragraph A.1(2)(c) [GDPO] is simply to ascertain whether, as a matter of fact and degree, it is an upright pole – or another structure to which the definition in paragraph A.4 applies – whose function is to support an antenna or arial; whether the building is less than 15 metres in height; and whether the structure would be within 20 metres of the highway”

Therefore, in this planning application, the structure supporting (and together with) the antennae, constitutes a mast and is not permitted development in accordance with paragraph A1(2)(c) of Part 16 GDPO as it is less than 20 meters away from Fortune Green Road on a building less than 15 metres in height. As such it is unlawful to erect a telecommunications mast at this site. The cases cited above involve Cornerstone Telecommunications, and I am very surprised that they have, once again, submitted planning application in

Application No:    Consultees Name:    Received:

Comment:    Response:

breach of GDPO legislation.

Camden Council will be vulnerable to legal proceedings for misinterpretation of the law should they permit planning application 2020/5996/P.

Other relevant reasons for objection:

Mobile signal

In supporting technical information (file: 81552\_Planning\_Plot.pdf) it is stated "81552 is required to provide coverage and capacity to this area north of West Hampstead". I have never experienced any issues with my telephone signal in this area, and do not believe this to be adequate justification. This document shows a projection of the strength of mobile signal both before and after installation of the telecommunications mast – it does not provide any details of how the signal strength post-installation was calculated and we are informed that Radio Planners have used "advanced computer modelling software", which does not mean anything. More importantly however, Cornerstone and Telefonica UK Ltd have not produced empirical data evidencing a genuine concern by the local residents of poor mobile signal in the Fortune Green area. Therefore, even if the projected increased signal coverage in the area is accurate, for which we have no evidence, this remains a moot point.

Health and environmental implications

I also have concerns regarding 5G on the impact of health and the environment, although research to date has been inconclusive on this matter, the World Health Organisation together with the International Agency for Research on Cancer (IARC) has classified all radio frequency radiation (of which mobile signals are a part) as "possibly carcinogenic". Furthermore, in the Council's Camden Planning Guidance: Digital Infrastructure March 2018 [paragraph 14], there is a requirement for Cornerstone and Telefonica UK Ltd to produce a statement that certifies that the "cumulative exposure, when operational, will not exceed International Commission on non-ionising radiation protection guidelines" – I have seen no evidence of such a submission in the supporting documentation submitted with this planning application.

Thus, in view of the Montessori Nursey opposite Weech Hall, that Joan Court and Alfred Court directly across the street house many young children, the close proximity to Fortune Green Park that is busy daily with children and additionally contains a Nursery/Play Centre, this mast would unnecessarily expose the children of Fortune Green to radiation whose long-term health impacts are incompletely understood. In addition, UK Government Research in the Stewart Report (2000) advocated a precautionary approach to telecommunications development, recommends that the beam of greatest intensity from mobile phone masts should not fall on any part of a school's grounds or buildings without the agreement of the school and parents, and identified that children are more susceptible to telecommunications radiation.

**Application No:**    **Consultees Name:**    **Received:**    **Comment:**    **Response:**

I would, therefore, urge Camden Council to prioritise the safety of its residents, the safety of our children and reject planning application 2020/5996/P.

#### Due diligence in considering alternative sites

An additional important note, as shown in file: 23704120\_TEF\_81552 pre-con to London LPA 06.11.20 (Redacted).pdf, Cornerstone and Telefonica Ltd considered four other sites on Fortune Green Road. The reasons given for not choosing these alternative sites do not provide sufficient detail or plausible justification to show that a sequential approach and due diligence has been undertaken. In fact, quite the opposite is evident - a hastily thrown together box-ticking exercise. One such example of a reason for rejection being "construction on the roof".

#### Summary

In summary, application 2020/5996/P breaches GDPO legislation as supported by a recent high court judgement ([2018] EWHC 263) and subsequently upheld in the Court of Appeal ([2019] EWCA Civ 1016), would cause a significant adverse and unacceptable visual impact as admitted by Camden Council, is in very close proximity to two nurseries and a busy children's park and impacts on the character of Hampstead Cemetery, a site of historic importance. Therefore, in light of all that is discussed above, it is incumbent upon Camden Council to reject this proposal.

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