

Our Ref: 56237.3

Your Ref:

Mr Nathaniel Young
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9 June 2021

Dear Mr Young

**Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
Planning Application 2021/1813/P: Letter of objection**

This firm acts on behalf of Mark Golinsky of 6 Albert Terrace and 3 & 6 Albert Terrace Mews, London and is instructed to lodge an objection to the application for prior approval reference 2021/1813/P for the erection of an 18m Phase 8 manopole, C/W wraparound cabinet at base and associated ancillary works (telecommunications installation) (the **Application**).

We note that the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the **GPDO**), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received.

The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO does not require regard to be had to the development plan save for matters relating to siting and appearance. In making this objection we have had regard to the policies of the development plan only in so far as they are a material consideration relevant to matters of siting and appearance.

We summarise the proposed development and set out our objections to the Application below.

Proposed development

The applicant is Hutchinson 3G UK Limited acting through Chris Weir of Dot Surveying (the **Applicant**) and the description for development for the Application is:

the erection of an 18m Phase 8 monopole, C/W wraparound cabinet at base and associated ancillary works (telecommunications installation)

at Section 4 of the application form the Applicant provides further details of the apparatus describing it as:

18 Metre High Street Pole (Monopole) Coloured Grey (RAL7035)

Cabinet 1 = 600mm x 500mm x 1585mm, Finished in Steel Cladding and Coloured Grey (RAL7035)

Cabinet 2 = 600mm x 600mm x 1200mm, Finished in Steel Cladding and Coloured Grey (RAL7035)

Cabinet 3 = 1900mm x 600mm x 1752mm, Finished in Steel Cladding and Coloured Grey (RAL7035)

We note that the submitted drawings show four cabinets not three as described. This discrepancy should be addressed and the plans amended or the application form amended and any resulting re-consultation should be undertaken, as necessary.

Planning objections

Background information

The Application is for the installation of telecommunications equipment on the boundary of Primrose Hill park. This park is Grade II registered under the Historic Buildings and Ancient Monuments Act 1953 within the register of Historic Parks and Gardens by Historic England for its special historic interest with List Entry Number 1001526.

As is well known, Primrose Hill benefits from spectacular views across London. It contains one of the six protected viewpoints in London necessitating trees to be kept low so as not to obscure the view. Maintaining the view from and to Primrose Hill park is materially significant, evidenced by its protected viewpoint.

Further the proposed development falls within the Primrose Hill Conservation area.

Heritage and design

We are of the view that the conclusions reached in the "5G site specific supplementary information and planning justification" statement submitted by the Applicant (the **Statement**) fails to draw on appropriate expertise or adequately address the impact of the siting and appearance of the development proposals. There is no reference to the adjacent designated heritage asset nor to any heritage or landscape expertise having underpinned the opinions formed which is crucial when assessing the impact of the Application.

Given the inadequate level of information accompanying this submission, the acceptability of the scheme cannot be demonstrated and the scheme should be refused.

Development Plan Policies

Camden Local Plan policies D1 (Design) and D2 (Heritage) are both relevant to the Application and set each are addressed in detail below.

Local Plan Policy D1 (Design)

We set out Policy D1 on matters of Design in full at Schedule 1.

The Application is contrary to the following limbs of Policy D1:

a. Respects local context and character:

The proposals are entirely out of context and character with the local area. The monopole at a height of 18m would be significantly taller than nearby street furniture. Particularly when viewed against the existing built form, which is generally of lower height and against their overall proportions, the scale of the monopole would be unduly dominant. The proposed monopole would result in an incongruous and visually intrusive feature which would sit unacceptably within the street scene and particularly when set against the adjacent park scene and view down into central London.

b. Preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage:

For the reasons set out below in consideration of policy D2 (Heritage) the Application fails to take into account its impact on the historic environment and the neighbouring Grade II listed heritage asset.

m. Preserves strategic and local views:

The Application would undoubtedly harm the view onto Primrose Hill from one of its very highest points damaging what is described by the Council as one of 'London's most famous and valued views', which, as noted above is one of six protected viewpoints in London.

Local Plan Policy D2 (Heritage)

We set out Policy D2 on matters of Heritage in full at Schedule 2.

Those parts of the Policy relating to designated heritage assets apply to the Application as it effects the setting of the Grade II listed park and is located within the Primrose Hill conservation area. While the Application may enable public benefit in the form of 5G connectivity this harm could be avoided, particularly in relation to Primrose Hill park, by positioning the infrastructure other than directly adjacent to it. The effect of the Proposals on the listed park has not been considered anywhere in the Application documents nor crucially as part of the Site Selection Process at section 7 of the Statement.

The Applicant has therefore failed to carry out the balancing exercise required to consider whether the harm caused by the proposals outweighs the public benefit.

The Application, particularly in terms of its siting and appearance, fails to comply with the object of Policy D2 to '*preserves or, where possible, enhances the character or appearance of the area*'.

For the reasons set out above and based on our review of the submission documentation, it is not considered that the public benefits arising from the scheme outweigh the harm identified. As a result, the proposal is contrary to the NPPF and Camden Local Plan D1 (Design), and D2 (Heritage) and the Application should be refused.

In relation to Policy D1, the proposal fails to respect local context and character; it fails to preserve or enhance the historic environment and heritage assets in accordance with Policy D2 Heritage and it fails to complement local character. Specifically, the impact the Application proposals will have a negative impact on the surrounding area by virtue of its height, position, visibility and prominence of the proposed development.

In relation to Policy D2 the proposal fails to preserve and enhance the heritage assets and their settings and the harm resulting is not considered to be outweighed by the public benefit.

Material Considerations

With regards to telecommunications development, the NPPF advises at paragraph 115 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*". This has not been undertaken to the appropriate level, particularly given the heritage assets affected.

Paragraph 113 of the NPPF advising that when new sites are acquired equipment should be "*sympathetically designed and camouflaged where appropriate*". The plans submitted with the Application do not show any attempts to camouflage the mast or cabinets.

Paragraph 13 of the Camden Planning Guidance: Digital Infrastructure advises that "*existing masts, buildings and other structures should be used unless the need for a new site has been demonstrated to the satisfaction of the Council. When a new site is required equipment should be sympathetically designed and appropriately camouflaged where possible*." Insufficient information has been submitted to justify the need for a new site and, as stated above, the Application does not provide any details for the mast or cabinets to be camouflaged. We do not consider the Application to comply with the Council's guidance.

We therefore conclude that the Application is contrary to the NPPF (Section 10: Supporting High Quality Communications and Section 16: Conserving and Enhancing Historic Environment); contrary to the Camden Local Plan 2017 (policies D1 and D2) and to supplementary planning guidance in the Camden Planning Guidance: Digital Infrastructure by virtue of the proposed design, siting, prominence and resulting impact and harm arising to designated heritage assets and inadequate justification provided.

Site Selection Process

The Applicant sets out their site selection process at section 6 of the Statement. We note that the 'discounted option' section makes a number of factual statements as to the various locations considered and subsequently discounted, particularly for reasons relating to the type of properties located on a street, overlooking, the presence of building entrances and width of the pavements.

Many of these characteristics apply equally to the Application site as to the 'discounted sites'. The Applicant has failed to set out any analysis as to why the Application site is considered preferable to these other locations. In the absence of this analysis it is impossible for the Council to decide if the Applicant's decision as to the preferable location for the mast is a reasonable one.

At page 5 of the Statement the Applicant states that *'in this location, existing base stations are not capable of supporting additional equipment to extend coverage across the target area and prospective 'in-fill' mast sites are extremely limited'*. No further analysis as to why the availability of using existing *'buildings and other structures'* in accordance with paragraph 113 of the NPPF is not explored further.

Arboriculture

Page 5 of the Statement states that:

"While the design itself is typical of street furniture found in such urban locations, particular care has been taken to ensure the location will have a minimal visual impact upon the many residential properties within the surrounding area, which the apparatus will ultimately serve. In particular, it is anticipated the adjacent trees will provide a significant level of screening, thus minimising any visual impact upon the surrounding residential dwellings.

The equipment is considered unlikely to have any material impact on the local area"

The Applicant places considerable weight on the level of screening to be provided by trees without any supporting arboricultural information. For instance it has not been established if the surrounding mature trees are of a type that will provide screening year round or solely in the summer months.

Pre-application advice

The Camden Planning Guidance: Digital Infrastructure at paragraph 15 also gives the following advice:

"given both the potential impact of such infrastructure on the historic environment and a significant of much of Camden's built environment, the Council also refers to the applicant the Code of Practice for mobile network development in England developed in partnership between mobile operators, government and other stakeholders, including Historic England".

A review of this document highlights that there is advice that "*for proposals which affect designated heritage assets, operators are advised to seek a meeting at the earliest possible stage with the local planning authority's conservation area*" (P30).

The Application refers to '*assistance or prior advice*' having been sought from the local authority on 9 June 2020. However, comments were only invited in a '*two week window*' and '*to the best of the applicant knowledge no formal response was received from the planning department*'.

The only contact appears to have been a letter sent to the Council's planning department. There is no evidence of formal pre-application contact, nor meetings, nor contact with the Council's Conservation Officer or Historic England. This is further evidence of the inappropriate and inadequate approach which has been taken to considering the impact of the proposals on the surrounding area. It also demonstrates that best practice has not been sufficiently adhered to and the public benefits should not be considered to outweigh the identified harm on the information provided and submitted.

Summary and conclusions

We strongly consider that the proposals as currently submitted are contrary to Schedule 2, Part 16, Class A, Paragraph A.3(4) of the GPDO on the basis of its siting and appearance. Further, we consider that the Application is contrary to those relevant parts of the development plan, the NPPF and to supplementary guidance and best practice.

The proposals by virtue of their siting and appearance will have a considerable degree of harm to the significance of the identified heritage assets (being the Grade II Listed Primrose Hill Park and the Primrose Hill Conservation Area).

The Application proposals have entirely failed to engage with Paragraph 113 of the NPPF and Paragraph 13 of the Camden Planning Guidance: Digital Infrastructure both of which require infrastructure to be properly camouflaged where possible.

The site selection process undertaken by the Applicant has failed to undertake any analysis as to the relative advantages of the Application site over the discounted options. Particularly the Applicant has failed to engage with the availability of using existing '*buildings and other structures*' to site the mast in accordance with paragraph 113 of the NPPF.

Furthermore, the level of information is insufficient to demonstrate that all relevant matters, but particularly heritage, have been adequately taken into account. It would be premature to approved the Application in these circumstances.

We would be grateful if you would please keep us updated regarding the status of the Application. In the event it is to be determined by planning committee, please accept this letter as a request to address the committee.

Yours faithfully

Mishcon de Reya

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Schedule I

Camden Local Plan Policy D1

Policy D1 Design

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.

Schedule 2 Camden Local Plan Policy D2

Policy D2 Heritage

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

Designated 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.