11.06.2021

Due Process Intervention
Application no. 2021/1813/P

Prior Approval: Erection of 18m Phase 8 Monopole, C/W wrapround Cabinet at base and associated ancillary works (telecommunications installation)

Area of footpath o/s No. 68 Regent's Park Road London NW1 8UD

Case Officer: Nathaniel Young
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Government and industry statements

The submitted 5G health and network briefing, and the Government Statement, as well as the Circular from Matt Warman dated 24th May 2021 to council Chief executives are **partial and misleading.**

They do not tell the truth about the wide body of credible evidence concerning the harm of chronic exposure to RFR, the inappropriateness of the ICNIRP guidelines, or the enormous carbon footprint and sustainability issues of the proposed 5G networks in use, installation and maintenance.

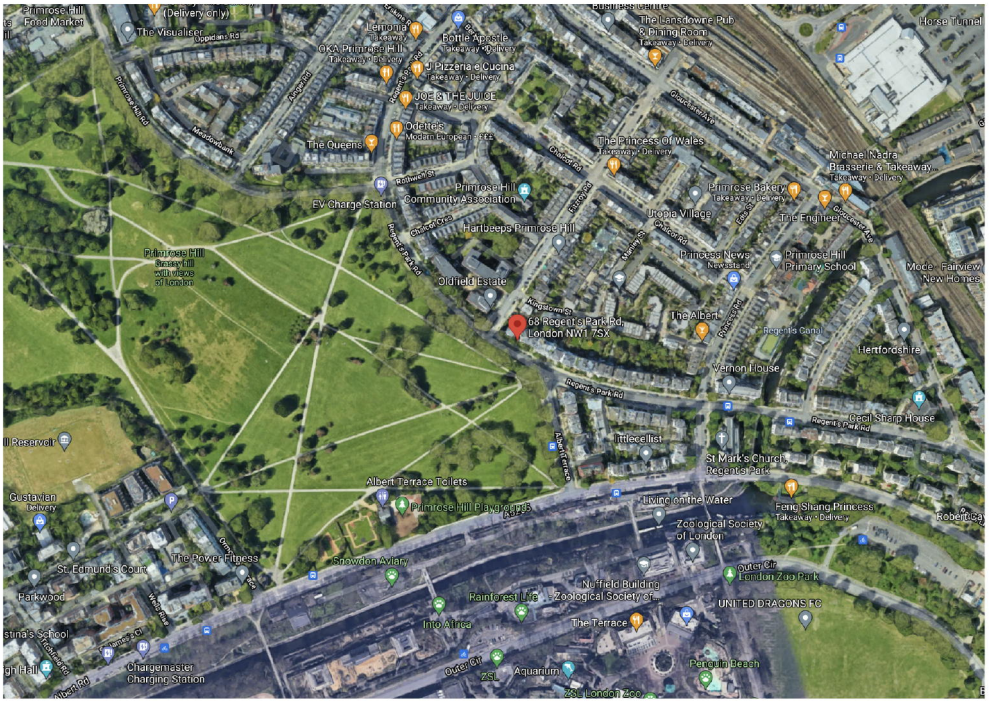
https://rfinfo.co.uk/legal-actions/

Call to action

Considering the above, I am writing with information that I hope can help you come to an informed and balanced judgement about the polluting effects of these new masts, which, as a siting issue, **are material planning considerations**. We depend on Planning Officers and our Elected Representatives to realise the serious and indisputable public and environmental hazards posed by this new generation of masts and I very much appreciate you considering all the references in this objection.

Contrary to Matt Warman's advisory of 24th May, you may in fact use para 180 of the NPPF, and the new **EECC 2018 code** (see below), to support and reinforce a decision to refuse. Your duties still apply **notwithstanding** the presumption in favour of development under Part 16 of the Town and Country Planning (General Permitted Development) Order 2015.

The Council can protect the public by making a reliable evidence-based determination of this application which takes account of **all material planning considerations** and related evidence. The **environmental public health** implications of the proposal merits evaluation in conjunction with your Authority's Director of Public Health and/or an Environmental Health Officer, or another relevant professional.



A) Visual amenity

Firstly, as a visitor to the area, and concerned member of the public I object to this plan because of its insensitive siting. The 18m height of the telecommunication monopole in a historic and residential area, immediately adjacent to **schools, houses, offices, retail and primrose hill park** would result in an incongruous and overbearing structure having an unacceptable impact on the character and appearance of the area.

The siting also raises serious health and environmental issues.

B) Material Planning Consideration and Planning Law

Radio Frequency Radiation (RFR) exposures are regulated through planning policy (as reported in paragraph 4 of guidance issued by Public Health England (PHE), as '*Mobile phone base stations: radio waves and health*' [i].

RFR exposures are also defined as **pollutants** or potential pollutants under the **EPA 1990**, and this equally applies to their **non-thermal effects**. [ii] As such, there are health and environmental concerns about blanketing areas adjacent to the application site with more *'electrosmog'*. The evidence of the polluting effects of RFR must be properly assessed under an 'incompatible or unacceptable use' designation as a **material planning consideration**, and in accordance with the first sentence of **para 180** of the current National Planning Policy Framework (NPPF), which reads:

'Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development'.

Evidence of the polluting effects of RFR exposures raised as health concerns by objectors, and from other relevant sources, under the 'incompatible or unacceptable use' designation, must be balanced against **para 116** NPPF guidance and the applicant's ICNIRP certificate. Paragraph 116 reads:

'Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure'.

Planning Officers cannot deny the significance of evidence-based objections made by the public concerning the siting of the telecommunication mast on health grounds.

Reliance upon paragraph 116 NPPF policy as being sufficiently protective of public safety, and for the purposes of addressing broader environmental protection concerns evidenced by the submission of the applicant's ICNIRP certificate will not suffice as taking properly into account the polluting effects of RFR emissions.

As asserted by Lord Gill in the Supreme Court judgment in *Suffolk Coastal District Council v Hopkins Homes Ltd* et.al,

'the guidance given by the Framework (the NPPF) is not to be interpreted as if it were a statute.[iii]

Your Authority may assume that NPPF guidance can be viewed as a 'material planning consideration', however planning law dictates that considerations relevant to applications that raise 'incompatible or unacceptable use' grounds for refusal, including evidence of adverse health effects arising from the use of the land in question, have to be given due weight within a competent evidence-based determination.

Where NPPF policies conflict, material planning considerations and related evidence will be decisive. The application can be refused through a determination that ICNIRP certification made by the applicant is insufficient to counter the evidence that on siting grounds the applicant's proposal is an 'incompatible or unacceptable use' of the land that the applicant intends to deploy.

Your Authority's evaluation of the applications must also ensure that guidance issued by Public Health England (PHE), as '*Mobile phone base stations: radio waves and health'* issued in September 2020,

https://www.gov.uk/government/publications/mobile-phone-base-stations-radio-waves-and-health/mobile-phone-base-stations-radio-waves-and-health

and the '*Code of Best Practice on Mobile Network Development in England'* issued as a Government/Industry initiative in November 2016,

https://planningjungle.com/wp-content/uploads/Code-of-Best-Practice-on-Mobile-Network-Development-in-England-November-2016.pdf

are properly taken into account alongside evidence submitted by objectors, and from other relevant sources.

2) EECC 2018 requirement – legal obligation to apply precaution

Ofcom are the National Regulatory authority, and the local authority are a competent authority under the European Electronic Communications Code (EECC) that was brought into UK law in late December 2020.

The **EECC 2018** has clauses on public health. This means that local planning authorities have to make human public health imperative and reconcile environmental and public health concerns under the code. Competent Authority status derives from EU **Directive 2014/61/EU** and requires the application of

EECC Recitals **106**[iv] and **110**[v] as they apply to planning applications, and via 106 and ARTICLE **45 2.h**) the precautionary principle to be applied (the EECC refers to the European Council recommendations 1999/519/EC)

The Council must determine what weight to place on the guidance. The code clearly states that

- progress in science should be considered
- precaution should apply
- guidance other than ICNIRP can be accepted

Competent decisions on RFR exposures **may** require Telecom applicants to risk assess and demonstrate safety in accordance with their ISO 9001 obligations. As per EECC 2018 Recitals and ISO codes, **all** available evidence of non-thermal effects of RFR will have to be properly assessed to enable the Council as a Competent Authority to make an evidence-based determination of a Telecoms planning application.

As confirmed by a letter received from solicitors representing Public Health England (PHE) (Aug 2019), *"the guidance is not maintained and revised by PHE for the explicit purpose of any body undertaking any other statutory function. If in any other context regard is had to the Guidance that is entirely a matter for the discretion of the relevant body and it must determine what weight to place on the Guidance given the clear indication as to the sources from which the advice and recommendations in the Guidance are derived.* ***Equally, that body must determine what other evidence from members of the public or interested parties to consider in making any decision****".*

The Recitals/Articles have to be enacted by 'competent authorities', and as the UK Government relies upon local councils to control RFR exposure through planning policy, councils must be 'competent authorities' for the purpose of Recitals 106 and 110.

C) REFUSING APPLICATION ON HEALTH GROUNDS

- Recent science papers from 2019, 2020, 2021 referenced below show significant harmful effects near masts
- Children are more vulnerable and very recently scientists and doctors are calling for more protective guidelines: **5G space appeal**[vi] , **5G Appeal EU**[vii] , **International EMFscientist appeal**[viii]
- Statements have been made on this matter in **January 2021** by Professor J Frank in his essay '**Electromagnetic fields, 5G and health: what about the precautionary principle?**', published in the BMJ British Medical Journal and Journal of Epidemiology and Community Health (1978)[ix]

Risks to health have been established as a material planning consideration. I object to the application, as a new more intense form of pulsed microwave radiation being emitted will directly impact nearby residents.

https://rfinfo.co.uk/quickfire/

1) Proximity to masts

The proposed antennae are 4G++ and AIR 5G –which are presumably M-MIMO phased array, and sub 3.6Ghz. **This is a new transmission type therefore public and environmental health cannot be presumed or properly risk assessed.**

The increase in radial 4G radiation will also contribute further electro-smog, which is known to have non-thermal effects. The telecoms industry uses safety limits based on adult exposures which do not protect children and do not cover known non-thermal effects. I request in general that you consider

placing an immediate moratorium on such new masts, invoking the Precautionary Principle, and under your own planning powers.

This 2010 Blake Levett and Henry Lai" paper[x] states

"Both anecdotal reports and some epidemiology studies have found headaches, skin rashes, sleep disturbances, depression, decreased libido, increased rates of suicide, concentration problems, dizziness, memory changes, increased risk of cancer, tremors, and other neurophysiological effects in populations near base stations. While specific epidemiological research in this area is sparse and contradictory, and such exposures are difficult to quantify given the increasing background levels of RFR from myriad personal consumer products, some research does exist to warrant caution in infrastructure siting. Further epidemiology research that takes total ambient RFR exposures into consideration is warranted. Symptoms reported today may be classic microwave sickness, first described in 1978. Non-ionizing electromagnetic fields are among the fastest growing forms of environmental pollution."

November 2019, **"Limiting liability with positioning to minimize negative health effects of cellular phone towers"** [xi]
J D Pearce is warning telecoms companies that: *"There is a large and growing body of evidence that human exposure to RFR from cellular phone base stations causes negative health effects and suggests not placing masts within 500 m of schools and hospitals"*

January 2021, **"What is the radiation before 5G? A correlation study between measurements in situ and in real time and epidemiological indicators"** Madrid López et al [xii]
Earlier studies showing increase in headaches and sleep disturbances have been corroborated in the January 2021 research paper from Madrid, which found statistically significant increases in both. Cancer rates were 10 times the national rate near the mast (direct causality is not claimed in the paper).

2) Children are more vulnerable

Children are more vulnerable to radiofrequency radiation due to their developing nervous systems. ICNIRP (whose guidelines PHE Public Health England follow) do not acknowledge the non-thermal effects and claim they do not have enough science specific to children to alter their guidelines. Many independent doctors and scientists are pressing for more protective exposure guidelines and a precautionary approach.

Professor Tom Butler's discusses this fully in his paper: January 2020
"On the Clear Evidence of the Risks to Children from Non-Ionizing Radio Frequency Radiation: The Case of Digital Technologies in the Home, Classroom and Society"
Professor Tom Butler, Submission on 5G for the Action Against 5G Judicial Review case 2020 [xiii]

I appeal to you to apply precautionary principle and refuse this mast on health grounds.

D) SUSTAINABILITY

I object on planning grounds that the need for connectivity through 5G is not outweighed by the negative consequences of increased energy use, it leads to an increase in carbon emissions not a reduction and will create an unacceptable depletion of Earths non-renewable resources.

Please consider the following information when making an assessment of the balance between economic, social, and environmental objectives as required under the NPPF.

https://rfinfo.co.uk/carbon-footprint-of-5g/

1) 5G energy usage

Information and Communication Technology (ICT) is already the sector of the economy with one of the fastest growing carbon footprint.[xiv]

5G networks will be more efficient on a per-gigabyte basis, but the massive increase in the number of sites and the energy demands of those sites will result in a corresponding spike in energy consumption.[xv]

While each mobile generation has increased the energy usage (4G is already the largest energy guzzler among all types of networks), the industry expects 5G will multiply the energy use of mobile networks by 2 or even 3. The increase in energy usage will be unprecedented in the IT sector. Other estimates: IEEE[xvi] , The Guardian [xvii]

5G's improvement in energy efficiency (3-10 times) will be annihilated by the rebound effect; this is already confirmed by the industry itself due to the much higher amount of data (over 100 times) that can be exchanged on 5G networks compared to 4G.

2) 5G and non-renewable resource depletion

Electronic devices used 10 different metals in the 1980's. They now use between 40-50 different metals. Each metal requires large energy-guzzling facilities to be extracted and refined. All metals (except 2) will now become harder to extract and will see their costs increase.

If nothing is done, in the next 30 years we will extract more metals than we did since the beginning of humanity. The next generation will no longer have resources left to build unnecessary electronic devices and they will have to be satisfied with bare necessities.

Worldwide, 5G networks would require about 14 million 'macrocell' physical antenna sites, and at least twice as many 'microcell' antennas. This will require enormous amounts of extraction from the Earth's crust. Deploying 5G networks will only speed up non-renewable resource depletion. Also, billions of 5G electronic chips will need to be manufactured from scarce non-renewable resources.

3) Environmental harm

All biological life is affected by the non-ionising radiation.

March 2020 Alain Thill (Master of Science) from University of Freiburg review of the "Biological effects of electromagnetic fields on insects" reports 72/83 peer-reviewed studies show adverse effect at levels much lower than the ICNIRP limits [xviii]

"The results show that EMF could have a serious impact on the vitality of insect populations. In some experiments it was found that despite low levels of exposure to transmitters, harmful effects occurred after several months. Field strengths 100 times below the ICNIRP limits could already have effects. Against the background of the rapid decline of insects and the further expansion of high-frequency electromagnetic field sources, there is not only an urgent need for further research, but also in particular on the interactions with other harmful noxious agents, such as pesticides. When planning the expansion of mobile networks, insect habitats should be protected from high-intensity EMF exposure already now.

"Negative effects that were described in studies include: disturbance of the sense of orientation, reduced reproductive capacity and fertility, lethargy, changes in flight dynamics, in the success of foraging, in reaction speeds, escape behaviour, disturbance of circadian rhythms, blocking of the respiratory

chain and damage to mitochondria, mis-activation of the immune system, increased number of DNA strand breaks."

The direction of the science is moving to show that the extent of harms to insects and pollinators in particular is significant and I appeal to you to apply the precautionary principle embedded in law as already described. (EECC 106, European Council Recommendation 1999/519/EC)

NPPF Section 15 paragraph 170d
"Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures."

E) SUMMARY

Apart from the limited aesthetic considerations of siting and appearance that you can consider under the Planning Application, this application also raises grounds for investigation of the polluting effects of RFR. Notwithstanding Part 16 of the GDPO 2015. It cannot be 'nodded through'.

The difficult conflicts and contradictions between policies need to be weighed up.

NPPF **section 10** supports the expansion of 5G but this co-exists with NPPF **sections 14 & 15** which contains the policies and overarching intention and commitment to sustainability and pollution prevention.

Please consider all these facts when making an evidence-based decision regarding the material planning consideration "unacceptable and incompatible" use. No single policy within the NPPF can be relied on.

The cumulative polluting effects via health impact on children, risks to wildlife particularly pollinators, energy consumption, and non-renewables depletion ALL together far outweigh any potential economic benefits. **A precautionary refusal under the EECC2018 and your competent authority status should be made.**

Thank you. Yours Sincerely,

[redacted]

OLIVER PERCEVAL
[redacted]

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[i] https://www.gov.uk/government/publications/mobile-phone-base-stations-radio-waves-and-health/mobile-phone-base-stations-radio-waves-and-health
"'Control of exposures occurs through product safety legislation, health and safety legislation and planning policy. These regulatory areas all consider the international guidelines'."

[ii] https://pubmed.ncbi.nlm.nih.gov/27454111/

A reliable starting point for studying the polluting effects of RFR exposure is the 'EUROPAEM EMF Guideline 2016 for the prevention, diagnosis and treatment of EMF-related health problems and illnesses', 2016, Belyaev et al.

The guideline presents: a clinical framework for understanding the causes of injury risk/harm caused by RFR, and how to diagnose, treat, and possible ways of mitigating illness/injury.

The guideline describes: the carcinogenic effects of RFR pollution (page 5); the genotoxic effects, particularly DNA damage and the impairment of DNA repair mechanisms (page 6); neurological effects (page 7); and the effects of the pollutants on infertility and reproduction (page 9).

The guideline reports on: the health consequences of electro-magnetic hypersensitivity (pages 9 to 22); treatment strategies for EMF-related illnesses including EHS (page 13); the measurement of EMF exposure (page 17); and, on reduction/preventative strategies (page 20).

[iii] *Its purpose is to express general principles on which decision-makers are to proceed in pursuit of sustainable development* (paras 6-10, now superseded by paras 7-14 of chapter 2 'Sustainable Development' of the current NPPF) *and to apply those principles by more specific prescriptions ...* (paragraph 74) ...

In my view, such prescriptions must always be interpreted in the overall context of the guidance document. That context involves the broad purpose of the guidance and the particular planning problems to which it is directed. Where the guidance relates to decision-making in planning applications, it must be interpreted in all cases in the context of section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, to which the guidance is subordinate' (paragraph 75).

[iv] **Recital 106** reads:

'competent authorities should seek to reconcile the environmental and public health considerations in question, taking due account of the method and ***precautionary approach*** *set out in Para 19, Council Recommendation 1999/519/EC'.*

(para 19) 'the Member States should take note of progress made in scientific knowledge and technology with respect to non-ionising radiation protection, taking into account the aspect of precaution, and should provide for regular scrutiny and review with an assessment being made at regular intervals in the light of guidance issued by competent international organisations, such as the International Commission on Non-Ionising Radiation Protection'

[v] The first sentence of **Recital 110** reads:

'the need to ensure that citizens are not exposed to electromagnetic fields at a level harmful to public health is imperative. Member States should pursue consistency across the Union to address this issue, having particular regard to the ***pre-cautionary approach*** *taken in Recommendation 1999/519/EC, in order to work towards ensuring more consistent de-ployment conditions'.*

[vi] https://www.5gspaceappeal.org/the-appeal

[vii] http://www.5gappeal.eu

[viii] https://www.emfscientist.org

[ix] https://jech.bmj.com/content/75/6/562

[x] https://cdnsciencepub.com/doi/full/10.1139/A10-018#.WYUlOHeZNo4

[xi]https://www.researchgate.net/publication/337624982_Limiting_liability_with_positioning_to_minimize_negative_health_effects_of_cellular_phone_towers

[xii] https://www.sciencedirect.com/science/article/abs/pii/S0013935121000281?via%3Dihub

[xiii] https://actionagainst5g.org/wp-content/uploads/2020/05/Prof-Tom-Butler-Submission-on-5G.pdf

[xiv] https://ideas.repec.org/a/eee/eneeco/v81y2019icp380-392.html

[xv] https://www.isemag.com/2021/03/telecom-5g-energy-reduction-batteries-hybrid-solutions/

[xvi] https://spectrum.ieee.org/telecom/wireless/5gs-waveform-is-a-battery-vampire

[xvii] https://www.theguardian.com/environment/2017/dec/11/tsunami-of-data-could-consume-fifth-global-electricity-by-2025

[xviii] https://ehtrust.org/wp-content/uploads/Thill_Review_Insects_2020_Engl.pdf