Appellant reference: CTIL_20832821, TEF_64699, VF_013798-APPEAL
LPA application reference: 2020/4214/P

Section 78 of the Town and Country Planning Act 1990
(as amended)

Full Statement of Case

On behalf of Cornerstone, Telefonica UK Limited and Vodafone Limited

A planning appeal by written representation against the decision of the London Borough of Camden Council to refuse prior approval for "installation of 6no. 3m support poles (26.63m AGL) supporting 6no. antennas and 2no. 300mm dishes, the installation of 4no. cabinets and ancillary works thereto" at Hill View Apartments, Primrose Hill Road, London, NW3 3AX

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Table of Contents

Section 1: Introduction

1. This statement has been prepared by Waldon Telecom Limited (hereinafter referred to as "the Agent"), acting for Cornerstone, Telefónica UK Ltd and Vodafone Limited (hereinafter referred to as "the Appellant"), against the refusal of prior approval by the London Borough of Camden Council to (hereinafter referred to as "the Local Authority") for the installation of electronic communications apparatus (herein after referred to as "the Appeal Proposal") at Hill View Apartments, Primrose Hill Road, London, NW3 3AX (hereinafter referred to as "the Appeal Site").

2. Cornerstone is a joint-venture company set up by licensed mobile network operators Telefónica UK Ltd (trading as O2) and Vodafone Ltd (hereinafter referred to as "the Operators") in November 2012. Cornerstone is responsible for the upgrade, roll-out and management of a network of shared electronic communication radio base stations in the UK, for the two electronic communications code operators.

3. Ofcom announced the outcome of its 4G spectrum licence auction in 2013 and Telefónica and Vodafone were both successful with their bids for 4G licences. Since then, through its appointed partners and agents, Cornerstone has been upgrading the Operators' existing base stations and developing new sites where necessary in order to provide a high-speed 4G LTE (across multiple cellular bands) single network grid mobile broadband service in the UK.

4. More recently, the operators successfully bid for 5G licences and have started introducing this ultra-fast connectivity to parts of the UK. Where necessary, improvements or infills to 3G and 2G services are being incorporated to ensure optimum service is provided to users.

5. The subject of the appeal is a proposal to improve the Operators' mobile communication services in an identified geographical area through the provision of new 5G services and enhanced 2G, 3G and 4G services. This would be achieved by the installation of electronic communications apparatus onto a building named Hill View Apartments, establishing a new electronic communications base-station.

6. On 16th September 2020, an application seeking prior approval for the siting and appearance of 'installation of 6no. 3m support poles (26.63m AGL) supporting 6no. antennas and 2no. 300mm dishes, the installation of 4no. cabinets and ancillary works thereto' was submitted to the Local Authority. The application was determined via delegated powers and a decision notice dated 4th November 2020 advised that approval had been refused.

7. The decision notice states the following reasons why approval was refused:

> *"The proposals, by reason of their location, scale, height and design, would result in visual rooftop clutter which would cause harm to the character and appearance of the host property, local views including those from Primrose Hill, the nearby Primrose Hill Conservation Area and the setting of adjacent listed buildings, contrary to policies D1 (Design), D2 (Heritage) and A2 (Open space) of the London Borough of Camden Local Plan 2017."*

8. This statement provides background information on the development of mobile cellular networks and the identified need to establish a new shared base-station at the Appeal Site. Additionally, the

reasons for refusal are examined, including an appraisal of planning policy and the public benefits that the proposal would deliver. The environmental impact of the proposal will be assessed and it will be sought to demonstrate that the proposal results in “less than substantial” harm to heritage assets, and that this harm is outweighed by the public benefits of the proposal. As a result, the proposal would be in accordance with paragraph 196 of the NPPF.

Section 2: The Appeal Site & Proposal

2.1: The Appeal Site and surroundings

9. The Appeal Site is on the roof-top of a multi-storey residential apartment block named Hill View Apartments. A nine-storey irregular-shaped building of contemporary brick design, featuring various recesses and protrusions in form. The building's main roof level, flat and rising to a height of 23.62m above ground level, would host the apparatus pertaining to the Appeal Proposal. The main level features 1.1m high handrailing at its outer edges. A central stairwell and lift motor room rise above the main roof level to a height of 26.62m, forming the upper roof-level.

10. The south building elevation is setback from the highway of Primrose Hill Road, separated by landscaped grounds, an established hedgerow and boundary wall. Primrose Hill Road is flanked by mature and high-level tree planting forming part of the street-scene, accompanied by typical street-furniture such as streetlighting columns, road signage and pedestrian crossing.

11. The north-west elevation abuts Ainger Road where there are rows of lower-level residential dwellings and interspersed roadside tree planting. This north-east elevation is notably set-back from St Georges Terrace from which the Appeal Site is visible. Ground level garages and carparking, forming part of the Hill View development, separate the north-east elevation from St Georges Terrace, along with trees and other vegetation.

12. The Appeal Site is set in an urban area which has dense building patterns in multi-storey form, predominately in residential use. The site is at the edge of the settlement area which gives way to Primrose Hill park and gardens situated to the south of Primrose Hill Road. The park is open and expansive in nature, featuring landscaped grounds which include footpaths and semi-dense mature tree planting around the park's boundary.

13. The Appeal Site is not a listed building, nor is it inside a conservation area or other similar protective land designation. The site is located opposite Primrose Hill Park which is a registered grade II park and garden, and also Metropolitan Open Land. St Georges Terrace is located a short distance to the east of the site which is occupied by a terrace of 11No. houses, all grade II listed buildings. The Terrace and wider area to the east of the Appeal Site forms Primrose Hill Conservation Area.

2.2: Relevant Planning History

14. The preferred base-station design, to achieve optimum radio coverage and network capacity, would be through the installation of 12No. radio antennas (6No. antennas per Operator). This was the proposal that formed the original base-station design and was the subject of an application for Prior Approval submitted to the Local Authority in February 2020. The application was refused approval in April 2020. See Appendix 1 for plans which were the subject of the original application (App. ref. 2020/0989/P).

15. In the interests of reaching a resolution which would enable the required mobile network improvements to be delivered, the Appellant considered that a compromise to base-station performance by reducing the number of antennas from 12No. to 6No, and thereby also reducing the amount of supporting steel-work and overall amount of development, was appropriate. This

was in the context of addressing the Local Authority's concerns about the visual impact of the refused proposal. The reduced scheme, the Appeal Proposal, was refused approval for the same reasons as the first application. Since there is no further design compromise available in terms of the amount, scale and height of apparatus proposed, that would still enable the base-station to operate effectively, this appeal to the Secretary of State is submitted.

Application ref. 20/00469/TELCOM [first application]

- Installation of 12no. pole mounted antennas, 2no. 300mm dishes, 4no. cabinets and ancillary works thereto. Application for Prior Approval refused by the London Borough of Camden Council, decision notice dated 17 April 2020.

- Reasons for refusal: *"The proposal, by reason of its location, scale, height and design, would result in visual rooftop clutter which would cause harm to the character and appearance of the host property, local views including those from Primrose Hill, the nearby Primrose Hill Conservation Area and the setting of adjacent listed buildings, contrary to policies D1 (Design), D2 (Heritage) and A2 (Open space) of the London Borough of Camden Local Plan 2017."*

2.3: Description of the Proposal

16. The Appeal Proposal includes installation of 6No. radio antennas onto the main roof level. The antennas are rectangular shaped panel-like pieces of apparatus which emit radio waves, providing connectivity to mobile device users in the surrounding area.

17. Antennas would be mounted across 4No. proposed support frames using steel poles and brackets. There would be 4No. antenna clusters, comprising 1No. or 2No. antennas per cluster, located at different positions at the edge of the rooftop. The top of the antennas would have an above ground-level height of 26.2m which is 3m above the height of the main roof level. The top of the antennas would be approximately the same height as the upper roof-level. The proposal allows for 2No. dishes of 300mm diameter, each affixed to a support pole which in turn is secured across two of the main support frames. The dishes' microwaves connect to other base-stations to form a connected cellular network.

18. The antennas would connect to 4No. proposed equipment housing cabinets, to be located on a proposed steel platform against the lift motor room, via electrical cable feeders. The cables would be housed inside cable tray management (300mm wide) to be secured to the lift motor room wall and to the main roof level itself. These equipment cabinets form an essential component of the base-station and must be located as close to the antennas as possible in order to minimise electrical power losses during operation.

19. Other ancillary equipment includes electrical units which support the operation of the antennas. These are labelled as 'ERS Units' and 'RRU's' in the General Arrangement plans. This equipment would be installed onto the support frames.

Section 3: The Need & Public Benefits of the Proposal

20. The National Planning Policy Framework (NPPF), paragraph 116, advises that local authorities should not question the need for an electronic communications system. This addresses the Local Authority's statement that:

    "Camden Planning Guidance states that existing masts, buildings and other structures should be used unless the need for a new site has been demonstrated. The applicant has identified alternative sites within 350m of the application site which were not chosen for reasons mainly regarding the resulting height. This is not considered sufficient to demonstrate a new site in this location is necessary" (Delegated Report, para. 2.2)

21. Also see 'Site selection rationale' (para. 111) for more information on this matter. While the Local Authority should not be contending the need for the Appeal Proposal, a principle ground of this appeal is that their decision did not award enough weight to the need for the base-station and the associated public benefits that would be provided, relative to the weight attached to other considerations. The remainder of this section sets out the need and public benefits of the Appeal Proposal which were also referred to in the application supporting document 'Site Specific Supplementary Information' (SSSI) under Section 4 'Technical Justification'.

3.1: The Need

<u>Coverage & Signal Strength</u>

22. The Operators are proposing to establish a new mobile base-station within their cellular networks, enabling improvements in the provision of second, third, and fourth generation services (2G, 3G & 4G), and introducing fifth generation services (5G). The Appeal Proposal is for a dual-operator base-station, enabling both Operators to meet demand for improved communications coverage and increased network capacity from a single shared site.

23. Base stations use radio signals to connect mobile devices to the network, enabling people to send and receive calls, texts, emails, to upload and download data, and access services and information etc. They are low powered radio transmitters which have a limited range, meaning that they need to be located close to the area that requires coverage.

24. In this case, the Operators have identified that service provision is below optimum, on both of their respective networks, in the area surrounding the Appeal Site. The subject area includes the Primrose Hill park and northern parts of The Regent's Park, including ZSL London Zoo particularly for Vodafone, as well as sections of the A5205 Prince Albert Road and the major rail network to the north of the site. These are densely populated localities or areas with high footfall, which consequently places a high demand on the networks for calls, texts, data and other services. The Appeal Proposal would help to meet this demand by improving the signal strength that customers receive when using their mobile devices – providing faster and more reliable digital connections.

25. The following images are extracts from radio modelling software, known as coverage plots, which compare mobile coverage with/without the Appeal Proposal in operation. Figures 1 & 3 show the existing coverage pattern, Figures 2 & 4 show the modelled improvement that would be delivered

by the Appeal Proposal. Models show that the area surrounding the Appeal Site would go from receiving signal strength sufficient to provide service when 'outdoor or in a car' (green) or when in a 'suburban' area (red), to the highest signal strength available which is sufficient service provision when indoor in a 'dense urban' area (pink). It is this highest signal strength which is required in the area surrounding the Appeal Site and indeed what is required in metropolitan areas such as the London city region. Signal strength will vary according to location, representing a significant increase in reliable mobile digital connectivity to the area. Appendix 2 for full set of coverage plots.

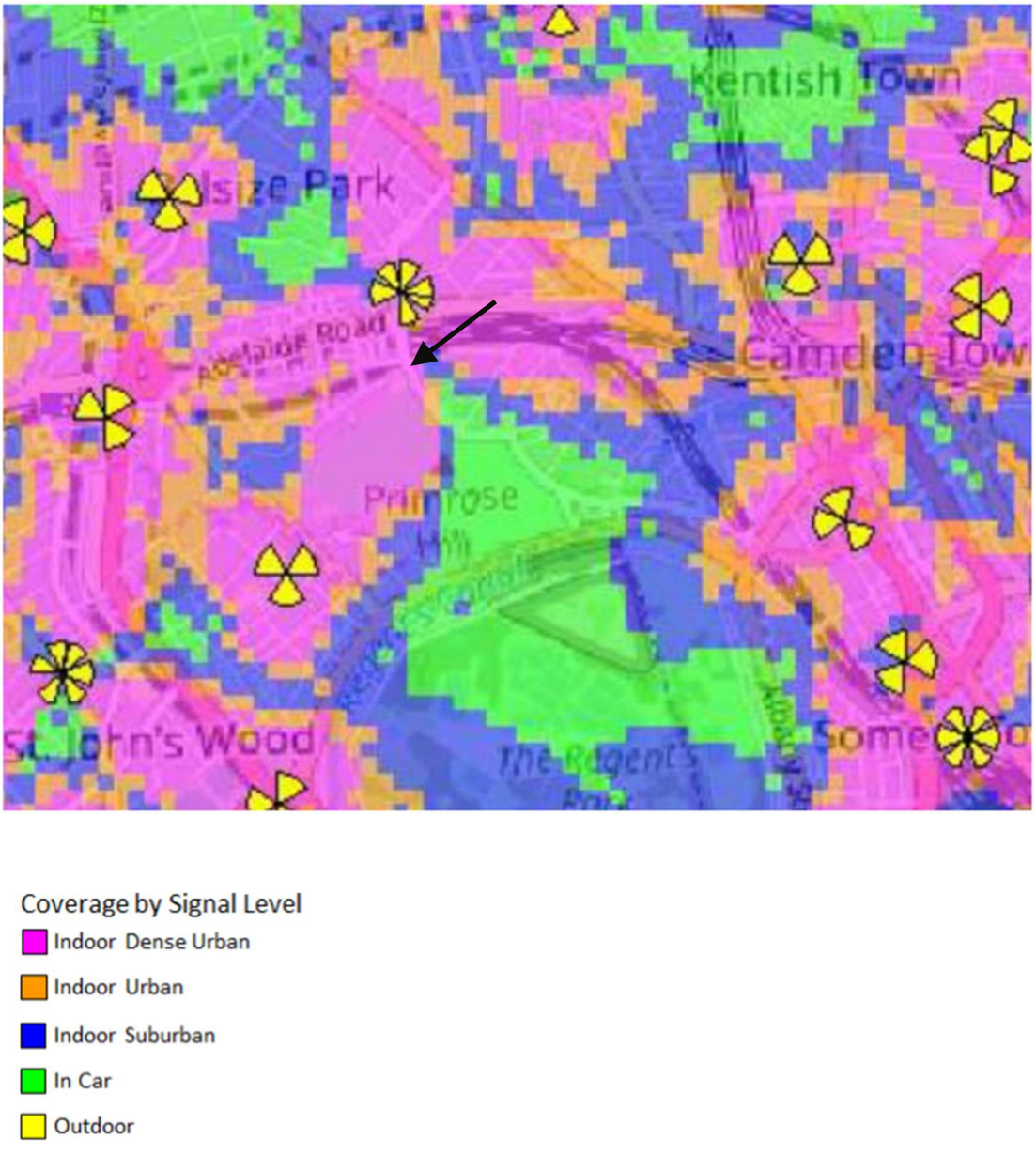

Figure 1. Telefonica's existing mobile coverage, Appeal Proposal not operational. Appeal site denoted by arrow

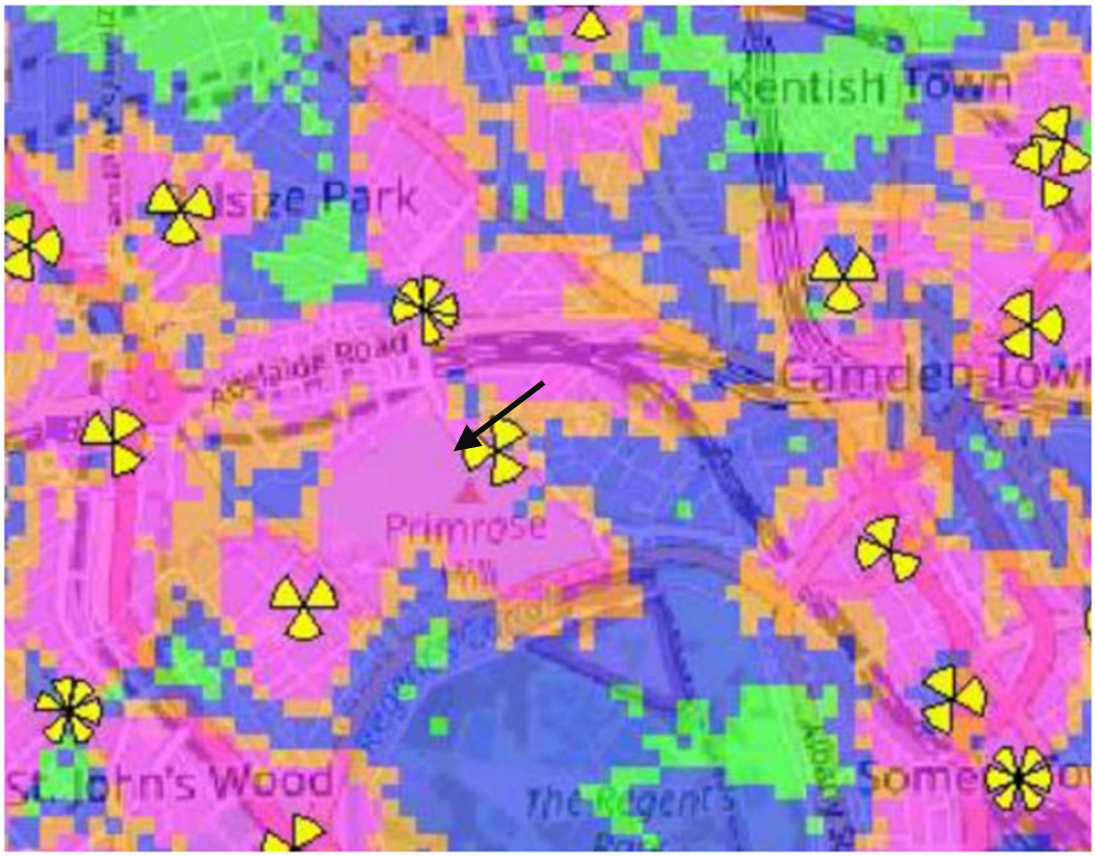

Figure 2. Telefonica's modelled mobile coverage, Appeal Proposal operational. Appeal site denoted by arrow

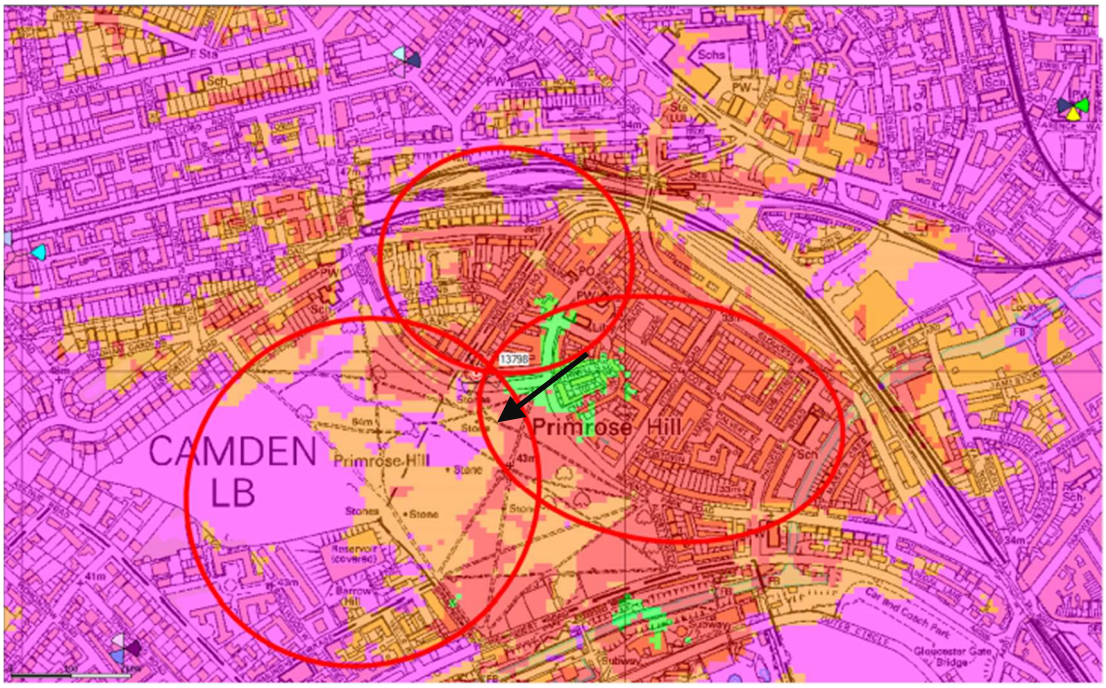

Figure 3. Vodafone's existing 3G coverage, Appeal Proposal not operational.

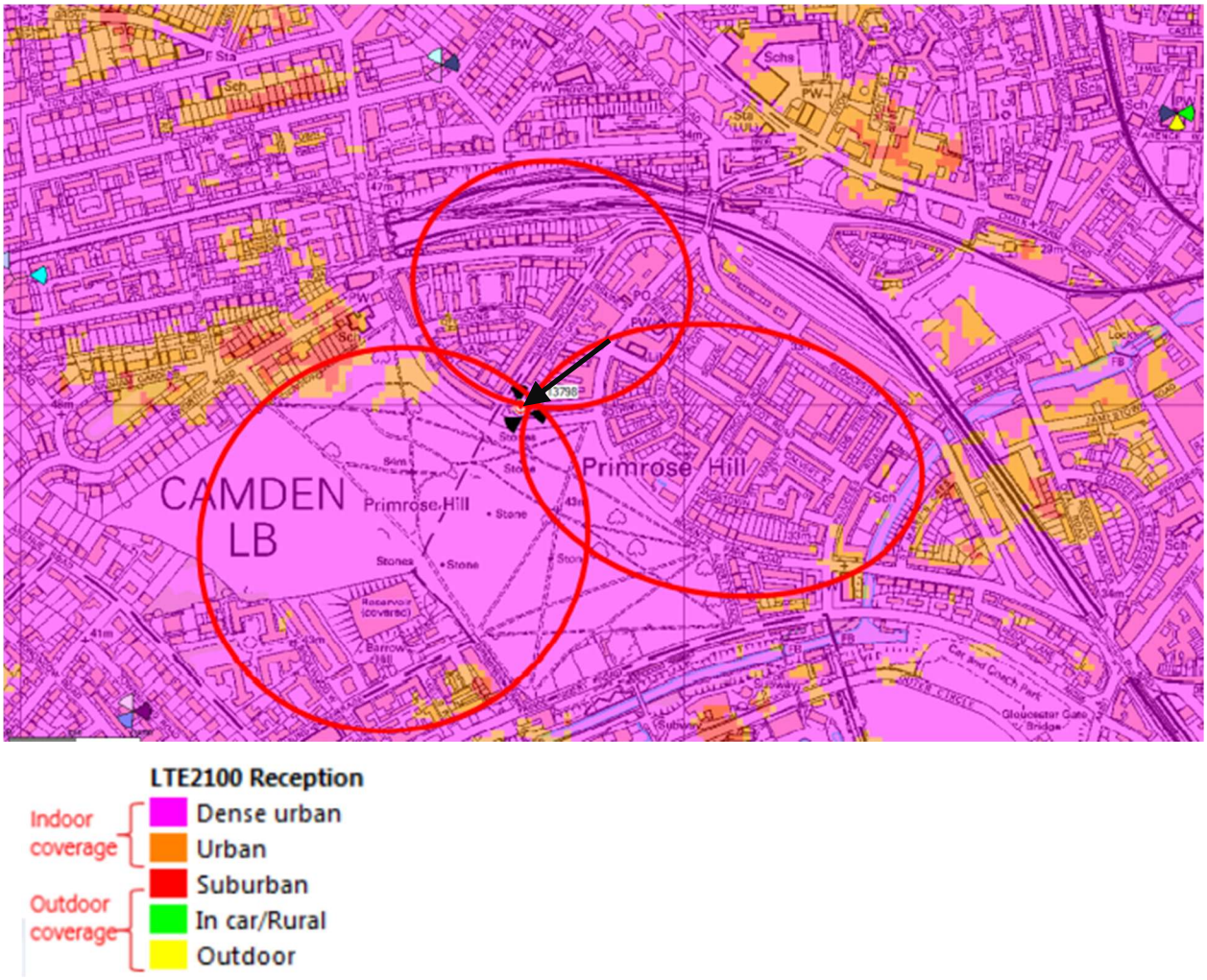

Figure 4. Vodafone's modelled 3G coverage, Appeal Proposal operational. Appeal site denoted by arrow

Network capacity

26. While varying levels of "coverage" may be presently available for both Operators, this does not necessarily mean that there is enough network "capacity" to meet the demand for services, which can consequently result in service reliability issues. Network capacity is the amount of calls and data that a base station can handle at any one time. This is a challenge for the networks, particularly in dense urban areas of the type surrounding the Appeal Site where there is a high concentration of mobile users in the form of residents, commuters, businesses and those using local attractions such as Primrose Hill Park and ZSL London Zoo.

27. In response to the global COVID-19 pandemic, the UK government introduced various travel restrictions which stipulated that most of the population must only leave the house for very limited purposes. As a result, practices such as working, socialising and shopping from home became essential. These practices are reliant on digital connectivity. Consequently, mobile operators experienced an unprecedented growth in network traffic. For example, Vodafone has experienced

about a 30% increase in internet traffic over their fixed and mobile networks, and mobile voice traffic has increased by 42%. [1]

28. The pandemic has also caused changes to user behaviour with increased demand for services where people live during the day, as opposed to where the existing high network capacity already exists which is in cities and around transport nodes, for example. This has caused even greater urgency to increase the capacity and capability of their mobile networks, particularly in residential areas such as that surrounding the Appeal Site, highlighting the critical nature of mobile infrastructure like the Appeal Proposal. This need existed prior to the pandemic and has now been intensified.

29. Change in trends for the demand of mobile services, as affected by the pandemic, is also evidenced in Ofcom's Connected Nations 2020 UK report[2]:

> *"There was an **increase in call volumes and average call duration** in the week the national lockdown was introduced in March 2020, which networks successfully handled. As restrictions continued, **mobile hotspots shifted away from the city centres to the suburbs** and residential areas."* (p 30) (emphasis added)

30. In addition to the change in mobile hotspots, the demand for mobile data continues to rise significantly which translates into increased demand on network capacity which the Appeal Proposal would contribute to meeting.

> *"**Mobile data consumption continues to rise, increasing by 42% compared with last year**. 83% of the total data traffic was consumed in England with about 10% in Scotland, 4% in Wales and 3% in Northern Ireland (largely in line with UK population distribution). Reflecting this growth, the traffic carried in England in June exceeded that carried across the whole UK in February"* (p 31) (emphasis added)

3.2: Public Benefits of the Proposal

31. Mobile telecoms networks are now ubiquitous throughout the UK. Individuals and businesses expect to be able to connect and use their mobile device whenever and wherever they so require. Access to quality mobile communication services is an essential utility for local residents, businesses and for the many commuters that travel through the area daily, as well as for the high number of visitors to local attractions such as the nearby Zoo and public parks.

32. In April 2020, the UK Government advised that telecommunications is one of the "critical sectors" in new government regulations and legislation, brought-in to deal with the COVID-19 outbreak. The guidance[3] establishes the critical nature of telecommunications infrastructure of the type that forms the Appeal Proposal:

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[1] Vodafone UK News Centre: How our networks will cope with more people staying at home (25 March 2020): https://newscentre.vodafone.co.uk/viewpoint/vodafone-networks-up-to-the-task-says-scott-petty/

[2] Ofcom's Connected Nations 2020 UK report: https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-2020/main-report

[3] COVID-19 guidance for telecommunications infrastructure deployment in England - GOV.UK (www.gov.uk): https://www.gov.uk/guidance/covid-19-guidance-for-telecommunications-infrastructure-deployment-in-england

"Government recognises the ongoing importance of the telecommunications industry at this critical time. Now, more than ever, the country is reliant on fixed line and mobile communications networks…

Fully operational telecommunications infrastructure is needed to support mass homeworking and ***critical connectivity*** *to emergency services and hospitals…*

Maintaining the integrity of our communications networks is of ***paramount importance*** *to sustain the increasing demands being placed on them."* (emphasis added)

33. In addition to improving voice and text services available through the proposed upgraded 2G services, and the internet connection that 3G coverage will provide, 4G will allow users to benefit from high speed internet connection on their mobile devices, allowing fast downloads, video streaming and the ability to send emails on the go.

34. This critical infrastructure would also introduce new 5G technology which has ultra-fast mobile connectivity and can operate the 'Internet of Things' (see para. 37). The proposal would provide higher mobile down-load speeds and more reliable, quicker phone connections. There would be increased capacity to provide services to a higher number of people at the same time.

35. Ofcom's Connected Nations 2020 UK report explains the important role of Mobile Networks Operators (MNO's) such as Telefónica and Vodafone:

"We expect MNOs to leverage other benefits of 5G as they continue to rollout their networks and to provide connectivity solutions for both consumers and businesses. This includes private networks for businesses, which will facilitate greater control and privacy in addition to connectivity.

5G will continue to target a range of other applications (e.g. manufacturing, logistics, agriculture, automotive, energy, media & entertainment and healthcare sectors) to deliver benefits to consumers, businesses and organisations. *5G (3GPP Release 16 & 17) has features such as near instantaneous network response (a latency of only a few milliseconds) and high reliability which are key enablers for these applications"* (emphasis added)

36. Ofcom's annual Communications Market Reports identify trends which demonstrate reliance on reliable mobile connections:

'We all need high-quality communications. In the modern world, a huge amount of our time is spent using communications services: for work, to stay in touch with family and friends, and in order to go about our daily lives. ***Our ability to access and use reliable mobile and broadband connections has become fundamental to the way we work and live, and to the ability of businesses of all sizes to thrive****. For many people, internet connectivity is now as essential as*

gas or electricity, and access to traditional television, radio, fixed phone lines and postal services continue to remain important.' (2016 report[4])

'The number of landlines fell by 1% to 33.1 million as a result of ***businesses switching to mobile*** *and VoIP-based voice services'* (2018 report[5])

'Our research in 2018 found that that ***67% of mobile users used their mobile phone for general browsing/surfing the internet*** *and 76% used it for web and data access, up from 28% and 35% respectively in 2011.'* (2018 report) (emphasis added)

37. The UK Digital Strategy, published by the Department for Digital, Culture, Media & Sport in March *2017[6], provides evidence of the public benefits of communication services:

*'**Broadband and mobile must be treated as the fourth utility, with everyone benefiting from improved connectivity.** This will play a crucial role in ensuring that everyone, wherever they live and however they connect, can make full use of digital services and benefit from participation in the digital economy. Improved connectivity also **increases innovation and productivity across the economy, bringing significant economic rewards**'*

*'**5G is the next generation of mobile connectivity**, and is currently in development. It is expected to represent a significant upgrade: providing **ultrafast, low latency, and more reliable mobile connectivity, able to handle our ever-increasing data requirements**. This should present huge opportunities to boost productivity and grow the economy. In addition to giving consumers and business users high quality connectivity, it will also support the development of the **Internet of Things: the rapidly-increasing number of connected devices, from connected cars to digital health applications.**'* (emphasis added)

38. The Department for Digital, Culture, Media & Sport published its findings of the Government's Future Telecoms Infrastructure Review in July 2018[7]. The review highlights the important and far reaching role of 5G infrastructure:

'Alongside finishing the roll out of 4G networks to meet existing mobile demand, we want the UK to be a world leader in 5G to take early advantage of this new technology. We have set a target that the majority of the population will have 5G coverage by 2027.'

'The technical capabilities and performance characteristics of 5G are clear. ***5G is expected to deliver faster and better mobile broadband services to consumers and businesses, and to enable innovative new services for industry sectors, including manufacturing, transport, immersive technologies and healthcare****.'* (p 10) (emphasis added)

[4] Ofcom's Communications Market Report 2016: https://www.ofcom.org.uk/__data/assets/pdf_file/0024/26826/cmr_uk_2016.pdf

[5] Ofcom's Communications Market Report 2016: https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2018/interactive

[6] UK Digital Strategy: https://www.gov.uk/government/publications/uk-digital-strategy

[7] Future Telecoms Infrastructure Review: https://www.gov.uk/government/publications/future-telecoms-infrastructure-review

39. These trends in mobile communication have evident social, economic and environmental implications. This includes mobile connectivity's role in providing social and digital inclusion to communities; economic competitiveness in attracting and retaining businesses to an area; and supporting sustainability objectives, such as enabling homeworking which reduces transport congestion and associated greenhouse gas emissions.

40. The value that the government attributes to these public benefits is backed-up by ever stronger legislative support. A new Electronic Communications Code published in 2017, taking effect under the Communications Act 2003, made it easier for network operators to install and maintain apparatus. The Government explains the significance of the new Code:

> *'The Government wants to reform the Code to put in place modern regulation which fully supports the rollout of digital communications infrastructure.* ***This infrastructure is vitally important to citizens right across the UK****, as digital communications become an ever more essential part of the economic and social fabric of this country.*[8] (emphasis added)

41. Additionally, the latest amendment to Part 16 of General Permitted Development Order (England) came into force in 2016, increasing the permitted development rights for installation of communications apparatus, demonstrating the importance that the Government attributes to delivering improved communications infrastructure.

42. In August 2019, the Government launched a consultation entitled *'Proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage*[9]*'*. The content of the Government's response to the consultation, published July 2020[10], is testament to the national importance of enabling advanced digital connectivity. Content from the response:

> "*As mobile network operators have now started rolling out 5G in the UK, it is timely to consider whether there are further reforms needed to ensure that the planning system continues to support the deployment of mobile infrastructure…*
>
> *Having considered the responses to the consultation, we are satisfied that there is evidence to demonstrate that the proposed reforms would have a positive impact on the government's ambitions for the deployment of 5G and extending mobile coverage."* (paragraphs 4 & 5)
>
> *"Improved connectivity will allow for greater participation for all in our society by helping people, including those who share protected characteristics, to access public services online and to work more flexibly. In particular,* ***5G will offer new capabilities over existing mobile technologies, including higher data rates, lower latency, higher energy efficiency and improved***

[8] Ministerial foreword in 'A New Electronic Communications Code', Department for Culture Media & Sport (May 2016)

[9] Proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/827162/Proposed_reforms_to_permitted_development_rights_to_support_the_deployment_of_5G_consultation.pdf

[10] Government response to the consultation on proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage: https://www.gov.uk/government/consultations/proposed-reforms-to-permitted-development-rights-to-support-the-deployment-of-5g-and-extend-mobile-coverage

performance. 5G is the first generation of mobile technology designed to support multiple applications, from mobile broadband and entertainment services, to industrial applications such as robotics and logistics*. Improved connectivity and ability to connect more devices to the Internet at the same time will also benefit health and social care applications, including enabling remote health monitoring, and creating timely alerts for patients, nurses and carers."* (paragraph 70, emphasis added)

43. These proposals to build on the expanded permitted development rights for communications infrastructure which were increased in 2016, further demonstrate this significance of critical mobile digital infrastructure to the public interest, and highlights the importance of delivering 5G services in particular, and furthermore the importance of digital connectivity to the economic and social objectives of government.

44. More recently in April 2021, the Government launched a consultation entitled *'Changes to permitted development rights for electronic communications infrastructure: technical consultation*[11]*'* which looks at how to implement the proposals consulted on in August 2019, demonstrating sustained commitment for Government to enable the smooth rollout of the latest digital technology. The Ministerial foreword to the consultation sets out the Government's latest position on the matter:

"Digital connectivity is – now, more than ever – vital to enable people to stay connected and businesses to grow. ***The demand for mobile data in the United Kingdom is increasing rapidly, and the COVID-19 pandemic has highlighted how important it is that we all have access to reliable, high quality mobile connectivity****...*

It is welcome that all four Mobile Network Operators have started to deploy 5G networks, meaning 5G is now available in over 200 towns and cities across the United Kingdom.

We must, however, continue to ensure people have access to fast, reliable digital connectivity and mobile coverage. ***The planning system plays a key role in delivering the infrastructure that we need as households and businesses become increasingly reliant on mobile connectivity****." (emphasis added)*

45. The main body of the consultation elaborates that digital connectivity will also be important during the recovery of the pandemic:

"Now, more than ever, people need access to dependable and consistent mobile coverage where they live, work and travel. The coronavirus pandemic has highlighted the importance of digital connectivity and ensuring that networks have sufficient capacity and resilience to meet demand. ***Increased connectivity will also be key to our recovery****"*

[11] Changes to permitted development rights for electronic communications infrastructure: technical consultation: https://www.gov.uk/government/consultations/changes-to-permitted-development-rights-for-electronic-communications-infrastructure-technical-consultation/changes-to-permitted-development-rights-for-electronic-communications-infrastructure-technical-consultation

46. Matt Warman (Digital Infrastructure Minister) gave the keynote speech at the Connected Britain 2020 conference[12]. His comments on behalf of Government in relation to the critical nature of digital connectivity and the opportunities of 5G, are significant.

> *"COVID has altered the way we live, work and, most importantly, stay connected with our family and friends. The digital infrastructure that keeps us all connected was essential to our daily way of life under lockdown - and is now more important than ever as we head into recovery.* ***Many of these changes - such as increased working from home - will stay with us for the foreseeable future.***
>
> *People in this sector have long referred to the internet as "the fourth utility" - and it's true. For countless people across the country, having fast and reliable broadband and a* ***good mobile connection is as essential and vital to our daily lives as gas, water and electricity…***
>
> *Turning to* ***5G,*** *while the commercial rollout of 5G continues at pace, we're pushing ahead with plans to make sure all sorts of industries benefit from this* ***game-changing technology****…*
>
> *In Liverpool, for example, a team will build a 5G network designed to benefit local NHS and social care services, and other public bodies. It will use private* ***5G networks to develop affordable connectivity for remote health and social care*** *- improving future resilience and helping to reduce inequalities in the system. But that's just one example. The* ***opportunities provided by 5G are endless."*** *(emphasis added)*

5G and Connectivity

47. The following are examples which demonstrate how 5G technology can be applied to provide public benefits. The examples were published by West Midlands 5G (WM5G) – an organisation set up to accelerate the benefits of 5G in that region. The same benefits, however, can be experienced anywhere in the country where 5G services are available and are therefore considered relevant to the Appeal Proposal.

> *'The outbreak of COVID-19 has cast a spotlight on mobile and broadband technology, the enabler for so many of the services we now rely on.* ***Keeping connected helps our healthcare services and other key workers respond to the COVID-19 pandemic, it helps those in lockdown at home interact*** *with their loved ones via Zoom and other conferencing services, and it is also* ***helping tens of millions of employees to work remotely.'***
>
> *'No matter how we end up emerging from this global crisis, the* ***trend of an increased demand for digital connectivity will only continue.*** *For example, now that the possibility has been proven, millions more workers will continue to rely on remote working in order to increase productivity and improve their respective work-life balances.'* (emphasis added)

[12] Matt Warman's Keynote Speech at Connected Britain 2020: https://www.gov.uk/government/speeches/matt-warmans-keynote-speech-at-connected-britain-2020

'Recovering after coronavirus will require disseminating vital information, connecting crucial services, leveraging big data and artificial intelligence (AI) as well as adopting new ways of working – and this all needs to be supported by ensuring stable network connectivity.'[13]

5G and Education

'From an academic perspective, ***the ubiquity of high-speed broadband and mobile connectivity, combined with new virtual learning platforms, creates the opportunity to deliver education to anyone, anywhere in the world.*** *The ways in which we can all access and benefit from education are changing. Many are choosing to study online now… Equally, learning on the job is now possible too, thanks to technologies such as Augmented Reality (AR) goggles, which can* ***give engineers real-time instructions on how to fix a machine on a production line****, for example.'*[14] (emphasis added)

5G and Manufacturing

'5G's increased capacity (ability to support thousands of devices on a factory floor at once), low-latency (ability to connect high volumes of devices in real-time) and enhanced security (through private networks which securely store data locally and can be managed on-site rather than in the cloud) make it ideal to support manufacturers to ***transform productivity****. This opens up* ***endless possibilities for advancements*** *such as predictive maintenance, virtual reality and augmented reality.'*[15] (emphasis added)

5G and Healthcare

*'****5G will prove critical in providing the infrastructure required to deliver remote health services over the next decade.*** *By design, 5G's ability to deliver real-time information (low latency), ultra-fast speeds (critical for high definition images and video), increased capacity and heightened security are going to be fundamental in scaling the patient benefits of remote healthcare and keeping medical records secure and private'*

'trial demonstrated how a ***paramedic was able to perform a remote-controlled ultrasound scan on a patient in an ambulance over a public 5G network****. Real-time high definition imagery was fed back to a physician over a 5G video link – something that 4G is not fast enough to support. The doctor in the hospital was able to control the ultrasound scan through a special haptic glove. This meant that the doctor could make a more accurate diagnosis on behalf of the paramedic, allowing the patient to be transferred to the most appropriate hospital to receive the right care'*[16] (emphasis added)

[13] WM5G – connectivity: https://www.wm5g.org.uk/news/why-great-connectivity-is-now-more-important-than-ever/
[14] WM5G – Education: https://www.wm5g.org.uk/news/5g-and-greater-connectivity-will-transform-learning/
[15] WM5G – Manufacturing: https://www.wm5g.org.uk/news/how-the-industry-is-manufacturing-a-5g-future/
[16] WM5G – Healthcare: https://www.wm5g.org.uk/news/why-5g-will-prove-fundamental-to-improving-healthcare/

48. It can be seen that 5G technology is expected to play an important role in supporting government policy in many aspects of public life and in multiple sectors, including with respect to promoting digital inclusion; improvements in health and social care; education and manufacturing methods; local economic growth; advancing the development of Smart Cities and supporting innovative uses throughout the transport sector for both personal and public travel.

Section 4: Planning Policy Context

4.1: National Planning Policy Framework

Sustainable development

49. The National Planning Policy Framework (February 2019) (NPPF) sets out the Government's planning policies for England and how these should be applied. The framework stipulates that the NPPF is a material consideration in planning decisions (para. 2).

50. Paragraph 7 of the NPPF states: '*The purpose of the planning system is to contribute to the achievement of sustainable development*', and in paragraph 10 that '*at the heart of the Framework is a presumption in favour of sustainable development*".

51. The NPPF identifies objectives to achieve the aim of sustainable development:

> '*a)* ***an economic objective*** *– to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of* ***infrastructure***;
>
> *b)* ***a social objective*** *– to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health,* ***social and cultural well-being****; and*
>
> *c)* ***an environmental objective*** *– to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*' (paragraph 8) (emphasis added)

52. The Appeal Proposal would meet the aims of sustainable development with respect to providing infrastructure to underpin local economic growth; facilitating social inclusiveness through the provision of effective electronic communication services; and in an environmental role through supporting home-working, for example, which is linked to a reduction in transport emissions and therefore climate change mitigation.

53. The NPPF advises that planning decisions should apply a presumption in favour of sustainable development and for decision making this means *'approving development proposals that accord with an up-to-date development plan without delay'.* The Appeal Proposal meets the definition of sustainable development.

Supporting high quality communications

54. The government sets out its national policy objectives for electronic communications in Section 10 'Supporting high quality communications'. Paragraph 112 emphasises the significance of delivering the latest communications infrastructure:

> *'Advanced, high quality and reliable* ***communications infrastructure is essential for economic growth and social well-being****. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (****such as 5G****) and full fibre broadband connections.'* (emphasis added)

55. The Appeal Proposal is such 'essential' infrastructure, delivering next generation mobile technology including 5G, and as such it is national policy that planning decisions should support such proposals.

56. It is proposed to install building-based critical mobile digital infrastructure which would be shared by two operators, thereby reducing the number of communications sites required. The proposal therefore adheres to paragraph 113 of the NPPF:

> *'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.* ***Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged.*** *Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate'* (emphasis added).

Conserving and enhancing the historic environment

57. In relation to considering the potential impacts of a development proposal on heritage assets, paragraph 193 of the NPPF advises:

> *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"*

58. Paragraph 196 goes onto establish that:

> *"Where a development proposal will lead to* ***less than substantial harm*** *to the significance of a designated heritage asset, this harm should be* ***weighed against the public benefits*** *of the proposal including, where appropriate, securing its optimum viable use"* (emphasis added)

59. The aforementioned NPPF policy, in relation to less than substantial harm being weighed against public benefits, is crucial in considering the merits of the Appeal Proposal. In their assessment of the proposal, the Local Authority concluded that the harm caused to heritage asserts would be less than substantial; however, they did not believe that public benefits outweighed this harm. Sections

3.1, 3.2 and 5.4 of this statement aim to demonstrate that the need and public benefits of the Appeal Proposal were underestimated by the Local Authority and in fact that these considerations would outweigh the less than substantial harm to assets.

4.2: Local Planning Policy

60. Section 70 of the Town and Country Planning Act 1990 (as amended) requires planning applications and appeals to be determined having regard to the provisions of the Development Plan. The Local Authority's Development Plan includes The Camden Local Plan (adopted 2017) (hereafter referred to as the "Local Plan") and the London Plan (adopted 2016).

Camden Local Plan

61. The Policies Map to the Local Plan informs that the Appeal Site does not form part of a policy designation. The Appeal Proposal is for installation of critical mobile digital communications infrastructure onto a building located in the settings of Primrose Hill Conservation Area and listed buildings on St George's Terrace, both designated heritage assets; and located next to Primrose Hill which is designated Metropolitan Open Land.

62. The Local Authority has cited conflict with policies A2 (Open space), D1 (Design), D2 (Heritage) as the local policy basis for refusing prior approval. It is considered that the more extensive list of polices outlined below are relevant to the Appeal Proposal. In accordance with Section 35 (b) of The Town and Country Planning (Development Management Procedure) (England) Order 2015, any relevant policy not included in the Local Authority's reasons for refusal is interpreted as the Local Authority considering compliance with said policies. Emphasis added by author to all quotes.

I POLICY A2 – OPEN SPACE

"The Council will protect, enhance and improve access to Camden's parks, open spaces and other green infrastructure. In order to protect the Council's open spaces, we will…

c. resist development which would be detrimental to the ***setting*** *of designated open spaces…*

g. give strong protection to ***maintaining the openness and character of Metropolitan Open Land*** *(MOL)"*

63. In respect to Policy A2, considerations such as the small scale and amount of development proposed, relative to the overall scale of the building it will sit on, coupled with the separation distance of the Appeal Site to the designated land – featuring mature tree planting to filter and screen views towards the site – lead to the conclusion that the setting of the open space would not impacted in any meaningful way. It would certainly not be impacted to the degree that the Appeal Proposal would conflict with the policy aim of Metropolitan Open Land which is to protect its openness and character.

64. In regard to the latter point of impact on openness and character, it is material that the Inspectorate has previously clarified that proposals under the Prior Approval process do not need to satisfy the tests for development in the Greenbelt which principally relate to preservation of openness. There

is a compelling case that this principle would apply in the case of the Appeal Proposal with respect to Metropolitan Open Land policy not being applicable to this application, which is also for Prior Approval. The main finding of said appeal decision, also relating to installation of electronic communications apparatus, is outlined below and enclosed in entirety at Appendix 3.

"The appeal arises from a decision of the Council not to give their approval for the siting or external appearance of a development that would otherwise be permitted under Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The permission granted under the GPDO is equivalent to an outline planning permission and the Council's considerations of the matter are limited to the effects of the development arising from its siting or external appearance, not the principle of the development. ***Although the site is within the Green Belt, it seems to me, therefore, that there is no scope to consider whether the scheme represents inappropriate development in the Green Belt****, or whether very special circumstances need to be demonstrated to justify the granting of approval for it. On that basis, the Council's first reason for refusal is outside the scope of the matters they were able to consider and should therefore be disregarded"* (emphasis added) (para. 4, appeal ref. APP/C3430/A/12/2172974)

I 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…
i. is secure and designed to ***minimise crime and antisocial behaviour****;*
j. responds to natural features and ***preserves gardens and other open space****…*
m. ***preserves strategic and local views****…"*

65. The Appeal Proposal adheres to the principles of Policy D1. In particular, the amount and scale of equipment proposed is minimal relative to the scale of the building as a whole. A total of 6No. antennas would rise 3m above the height of the main roof level which 23.32m high. The top of the antennas would not, however, protrude above the upper roof-level formed by the lift motor room. It is asserted that such a proposal in the context of a large-scale building, set in an urban area, would maintain the existing scale and hierarchy, and would not adversely affect the architectural character and unity of the host building in a significant way. The local context would be respected.

66. The equipment has a functional design made from quality and durable materials, suitable for the rooftop environment in which they would be installed. The Operators have well established processes in place to ensure the sustainable construction, and thereafter operation and maintenance of their equipment. The equipment would be not be accessible to the public, thereby designing-out vandalism and any other anti-social behaviour. Furthermore, utilising the rooftop of

the host building ensures that gardens and open space are preserved. This includes protection of the designated views from Primrose Hill which are directed away from the Appeal Site.

I 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…

The Council will… ***resist development outside of a conservation area that causes harm to the character or appearance of that conservation area****…"*

67. Heritage matter are addressed in more detail in the proceeding sections of this statement. It will be demonstrated that the Appeal Proposal adheres to the principles of Policy D2 with respect to sensitively altering the Appeal Site in a way which will preserve the settings of Primrose Hill Conservation Area and listed buildings on St Georges Terrace.

I CENTRAL LONDON

"The Council recognises the unique role, character and challenges of Central London in particular in ***balancing its economic, social and cultural role*** *and will support and promote the area as a successful and vibrant part of the capital to live in, work in and visit. We will: • support Central London as a focus for Camden's future growth in homes (including affordable housing), offices, shops, hotels and other uses and* ***ensure adequate infrastructure,*** *including transport,* ***utilities and digital****, is in place to support this growth"*

I POLICY G1 – DELIVERY AND LOCATION OF GROWTH

"The Council will create the conditions for growth to deliver the homes, jobs, ***infrastructure*** *and facilities to meet Camden's identified needs and harness the benefits for those who live and work in the borough."*

I POLICY E1 – ECOMOMIC DEVELOPMENT

"The Council will secure a successful and inclusive economy in Camden by creating the conditions for economic growth and harnessing the benefits for local residents and businesses. We will:

h. expect the provision of ***high speed digital infrastructure*** *in all employment developments"*

"The Council recognises the importance of digital infrastructure in enterprise development and ***expects electronic communication networks, including telecommunications and high speed broadband, to be provided in business premises****."* (para. 5.10)

I POLICY DM1 – DELIVERY AND MONITORING

"The Council will deliver the vision, objectives and policies of the Local Plan by…

b. working with relevant providers to ***ensure that necessary infrastructure is secured to support Camden's growth*** *and provide the facilities needed for the borough's communities. Information on key infrastructure programmes and projects in the borough up to 2031 are set out in Appendix 1…"*

I APPENDIX 1 – INFRASTRUCTURE TABLE

"No. 66 – Digital Infrastructure – ***Camden's Digital Strategy sets out a series of actions to support the uptake of high quality, next generation connectivity****. This includes better connections for businesses and residents already on-line, tackling the 'digital divide' where people lack the confidence to use IT and the greater use of digital technology in delivering services."*

68. The Local Plan contains multiple polices – Policy G1, E1 and DM1 – which unambiguously advise that growth and the needs of Camden's communities must be supported by suitable infrastructure. Policy E1 and the Infrastructure Table explicitly highlight the need for advanced digital infrastructure which the Appeal Proposal constitutes. In reaching their decision, the Local Authority does not appear to have given due regard to these pertinent policies of the Development Plan.

The London Plan 2016

69. The London Plan – The Spatial Development Plan for London (adopted 2016) – formed part of the Local Authority's development plan at the time the application was determined. The now superseded policies listed below, may have been considered relevant to the Appeal Proposal at the time of determination. Emphasis added by author.

I CHAPTER 1 – ENSURING THE INFRASTRUCTURE TO SUPPORT GROWTH

"What has been said here about energy and water highlights the importance of ensuring London has physical infrastructure adequate for the needs of a growing city, meeting the highest and most modern standards to help us use the city's resources as efficiently and sustainably as possible.
It will be important for the whole range of utility providers to work together and with the capital's government to make sure London has the infrastructure it needs, in the places it is needed *whether this is the network of substations and power lines distributing electricity, the network of water or gas mains or the wires and fibre optic cables that facilitate the flow of information increasingly important"* (Para. 1.38)

I POLICY 4.11 ENSURING A CONNECTED ECONOMY

"The Mayor and the GLA Group will, and all other strategic agencies should:

a facilitate the provision and delivery of the information and communications technology (ICT) infrastructure a modern and developing economy needs, particularly to ensure:

adequate and suitable network connectivity across London *(including well designed and located street-based apparatus); data centre capability; suitable electrical power supplies and security and resilience; and affordable, competitive connectivity meeting the needs of small and larger enterprises and individuals*

b ***support the use of information and communications technology*** *to enable easy and rapid access to information and services and support ways of working that deliver wider planning, sustainability and quality of life benefits."*

"Successful service-based economies like London increasingly depend upon infrastructure facilitating rapid transfer of information, speedy and easy access to advice and services and a flexible approach to where work takes place and when. This can also help deliver wider planning objectives, such as ***reducing congestion on traffic networks at peak hours by supporting forms of home working*** *and facilitating greater economic development in outer London. Increasingly, this will mean looking to the infrastructure needed to support 'ubiquitous networks' – those supporting use of a range of devices to access ICT services beyond deskbased personal computers, and the Mayor will examine the planning issues these might raise.*

The Mayor wishes to ensure sufficient ICT connectivity to enable communication and data transfer within London, and between London, the rest of the UK and globally. He will ***work with infrastructure providers****, developers and other stakeholders to support competitive choice and access to communications technology,* ***not just in strategic business locations but more broadly for firms and residents elsewhere in inner and outer London****, and to address e-exclusion, especially among disadvantaged groups and small and medium sized enterprises.*

In particular, he will ***support the development and extension of high speed connectivity****. Development proposals should ensure competitive connectivity… Appropriately located and designed street-based apparatus will also be needed."* (paras 4.56 & 4.57)

70. The then adopted London Plan provided strong support for the expansion of electronic communication networks of the type proposed. The far-reaching public benefits of such infrastructure is highlighted under Policy 4.11. The Operators are one such "infrastructure provider" that the Mayor wishes to work with to enable competitive choice and access to communications technology. The policy specifically advises that such provision should just not be available in strategic business locations but also elsewhere including to residents and visitors in inner London. The Appeal Proposal could be defined as delivering on the latter.

71. It is disconcerting that in the Local Authority's assessment of the Planning Balance (Delegated Report, section 4), there is no reference to Policy 4.11. This policy formed part of the development plan and as such it should have been awarded significant weight in the planning balance.

72. In the same regard, the report is selective in the NPPF sections that it refers to. Paragraph 12 of the NPPF states *"Advanced, high quality Planning policies and* ***decisions should support the expansion of electronic communications networks****, including next generation mobile technology (such as 5G) and full fibre broadband connections".* This a crucial material consideration to the Appeal Proposal and it is not explicitly awarded weight in the assessment or decision. This policy is now even more pertinent because digital infrastructure is classified as "critical" by the UK

Government. The Delegated Report would appear to be inadequate in its consideration of the planning balance.

The London Plan 2021 & Publication London Plan

73. Since the decision, he replacement London Plan – 'The London Plan 2021[17]' – has been adopted, in March 2021. It is the Spatial Development Strategy for Greater London, setting out a framework for how London will develop over the next 20-25 years and the Mayor's vision for Good Growth. The Plan is part of the statutory development plan for London, meaning that the policies in the Plan should inform decisions on planning applications across the capital. It is the most up to date policy document that is relevant to this appeal.

74. At the time the application was determined, The Mayor of London and London Assembly website[18] advised that the Mayor had formally approved a new London Plan, the 'Publication London Plan'. It had been prepared to address the Secretary of State's directions to the Intend to Publish plan. And that once the Mayor had formally received confirmation from the Secretary of State that he is content for the Publication London Plan to be published, the Mayor would proceed with the final steps to publish the final London Plan (now the London Plan 2021).

75. In the relation to the draft plan published prior to the Publication London Plan – the Intend to Publish London Plan – the Mayor of London and London Assembly website advised that because the replacement plan is at an advanced stage, *"policies contained in the Intend to Publish (ItP) London Plan published in December 2019 that are not subject to a direction by the Secretary of State carry significant weight [in planning decisions]".* It is assumed that the same principle applied to the more advanced 'Publication London Plan'. The policies listed below, which formed part of the Publication London Plan and are now part of the adopted London Plan 2021, are considered relevant to the Appeal Proposal. Emphasis added by author.

I FOREWARD

"And it's about making London a city with clean air for our children to breathe, and a pioneering smart city with ***world-class digital connectivity supporting more digital -devices to improve the lives of Londoners and enable businesses to thrive****."*

I PLANNING FOR GOOD GROWTH

"A city that is planned well can improve as it grows. Planning for the right number of homes and higher levels of affordable housing will take advantage of London's growth to re-balance the housing market. Planning for mixed use developments in all parts of London will spread the success of London's economy and create stronger communities where everyone feels welcome. Planning new developments to reduce car dependency will improve Londoners' health and make the city a better place to live. ***Planning for a 'smarter' city, with world-class digital connectivity will enable secure data to be better used to improve the lives of Londoners****"* (para. 1.0.10)

[17] The London Plan 2021: https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/london-plan-2021

[18] Publication London Plan: https://www.london.gov.uk/what-we-do/planning/london-plan/new-london-plan/publication-london-plan

I GROWING A GOOD ECONOMY

"The right infrastructure is also required to help businesses succeed across London. ***The digital economy, underpinned by world-class digital connectivity, data and digital services is of ever-increasing importance,*** *improving processes, opening up new markets and allowing more flexible working"* (para. 1.5.4)

I POLICY D2 – INFRASTRUCTURE REQUIREMENTS FOR SUSTAINABLE DENSITIES

''Where there is currently insufficient capacity of existing infrastructure to support proposed densities (including the impact of cumulative development), ***boroughs should work with applicants and infrastructure providers to ensure that sufficient capacity will exist*** *at the appropriate time"*
(part B)

I Policy SI 6 – DIGITAL CONNECTIVITY INFRASTRUCTURE

"To ensure London's global competitiveness now and in the future, development proposals should:

(2) ***meet expected demand for mobile connectivity*** *generated by the development…*

(4) ***support the effective use of rooftops*** *and the public realm (such as street furniture and bins) to accommodate well-designed and suitably located mobile digital infrastructure."*

"The provision of digital infrastructure is as important for the proper functioning of development as energy, water and waste management services and should be treated with the same importance. London should be a world-leading tech hub with world-class digital connectivity that can anticipate growing capacity needs and serve hard to reach areas. ***Fast, reliable digital connectivity is essential in today's economy and especially for digital technology and creative companies.*** *It supports every aspect of how people work and take part in modern society, helps smart innovation and facilitates regeneration."* (para. 9.6.1)

"London's capability in this area is currently limited by a range of issues, including the availability of fibre and the speeds delivered… Further work will be done to accurately identify locations in the capital where current connectivity provisions are not suitable for the needs of the area.

Better digital connectivity with a focus on capability, affordability, security, resilience and the provision of appropriate electrical power supply should be promoted *across the capital. The specific requirements of business clusters, such as a symmetrical-capable service with the same upload and download speeds, should also be met"* (para's 9.6.2 & 9.6.3)

"Development ***proposals should also demonstrate that mobile connectivity will be available throughout the development*** *and should not have detrimental impacts on the digital connectivity of neighbouring buildings"* (para. 9.6.5)

I DIGITAL INFRASTRUCTURE

*"**The London Infrastructure Plan 2050 estimates that £8 billion will be required to provide the digital connectivity infrastructure London needs**. As in the case of energy and water investment, new digital connectivity infrastructure is paid for upfront through finance or private equity investment backed by user charges. In general, decisions on where to invest in infrastructure are determined on a demand-led or network capability and capacity basis. There are also regulatory obligations for coverage, and infrastructure roll-out decisions are also dependent on technology delivery type. **Increasing demand, as business activities and people's lifestyles become more dependent on faster broadband, means that, as with other utilities, the regulatory regime must support investment ahead of demand**. This should take account of the fast-changing nature of digital technology"* (para. 11.1.45)

76. The London Plan 2021 has sustained its support for the provision of advanced electronic communications, in the same regard as the now superseded London Plan 2016. Policy D2 is material to the Appeal Proposal with respect to increasing the "capacity" of the Operators' radio networks to meet the high demand for services.

77. So is Policy SI 6 in relation to its support for the effective use of rooftops to accommodate equipment; and with respect to the significant socio-economic benefits of digital infrastructure which is a material consideration in itself. The policy recognises that London's digital capability is currently restricted and there is need to identify locations where provision is inadequate – the area surrounding the Appeal Site is one such location which the Operators have identified as requiring improvement (see Section 3.1 The Need) and the Appeal Proposal would deliver on this policy.

78. It is also significant that suitable mobile connectivity is now a policy criteria in assessing applications for new development proposals (para. 9.6.50 This means that inadequate connectivity, which could factor coverage availability and network capacity, would hinder the approval prospects of developments planned? in the area local to the Appeal Site. This has important socio-economic implications for the local area and in wider Camden.

4.3: Other Relevant Guidance

<u>Camden Planning Guidance (CPG): Digital Infrastructure</u>

79. This guidance document (adopted 2018) describes itself as a formal Supplementary Planning Document which is a material consideration in planning decisions. It advises that proposals for telecommunications equipment will be determined in accordance with the NPPF, and paragraph 15 refers applicants to the Code of Best Practice on Mobile Network Development in England (COBP) in the context of the potential for such infrastructure to impact the historic environment.

The Code of Best Practice

80. The Code of Best Practice on Mobile Network Development in England[19] (published 2016) (hereafter referred to as "the CoBP") provides guidance to Mobile Network Operators, their agents and contractors, and equally to all local planning authorities in England.

81. Developed by a Working Group consisting of representatives of: the then Arqiva; the then Department for Communities and Local Government; the then Department for Culture Media and Sport; the Department for Environment, Food and Rural Affairs; Historic England; the Local Government Association; Mobile UK (representing the Mobile Network Operators); Landscapes for Life; National Parks England; and the Planning Officers Society. The principles below, taken from the COBP, are relevant to the Appeal Proposal. Emphasis added by author.

I Mast and Site Sharing

"Operators also support site sharing wherever viable. ***If operators are able to share sites, and install more equipment on each site, this reduces the overall visual impact of network infrastructure, because even though shared sites will tend to be slightly bigger, it means that fewer sites are needed*** *to improve coverage and capacity, infrastructure becomes more feasible, and is more cost-effective to deploy."* (Appendix A, p 24)

I Installation on Existing Buildings and Structures

"The use of existing buildings and structures by the operators as sites for the installation of their telecommunications equipment is an established measure which has greatly ***helped to reduce the environmental impact*** *of their networks. Examples of buildings and structures which may be suitable include… Office/****residential blocks****"* (p25)

"When placing equipment on buildings and/ or structures operators should aim for development to:

• Be kept in proportion to the building or structure; • Respect architectural style; • Minimise impact above the roof line commensurate with technical constraints; • Minimise impact on important views and skyline; • Avoid creating undue clutter; • Use clean lines and maintain symmetry where possible • Be painted or clad to correspond with the background or to reduce contrast where appropriate" (p25)

82. The Appeal Proposal has followed the CoBP guidance by putting forward a design solution which enables the communications equipment of two mobile operators to be accommodated at a single site. The CoBP recognises that although "shared sites will tend to be slightly bigger, it means that fewer sites are needed to improve coverage and capacity" (Appendix A, p24). In the case of the Appeal Proposal, the operators have reduced to the minimum number of antennas possible – 3No. each – following the refusal of the first application for a higher number of antennas. The higher number of antennas would have been preferable for providing optimum service to the surrounding area.

[19]The Code of Best Practice on Mobile Network Development In England: https://www.gov.uk/government/publications/code-of-best-practice-on-mobile-phone-network-development

83. The CoBP goes on to highlight that installation of equipment onto buildings such as residential blocks, as oppose to installation of a ground-based mast, has greatly helped to reduce the environmental impact of network development. The Appeal Proposal adheres to CoBP design guidance for placing equipment onto buildings, including with respect to equipment being "kept in proportion to the building" and by minimising "impact above the roof line commensurate with technical constraints". The latter evidenced by the moderate 3m height increase above the main roofline (still below the upper roofline), required in order to achieve an antenna height which will enable the radio signal to clear surrounding structures and reach the areas where reception is required.

Section 5: Assessment of the Proposal & Reasons for Refusal

84. The Decision Notice states the following reason why the Local Authority refused prior approval:

> *"The proposals, by reason of their location, scale, height and design, would result in visual rooftop clutter which would cause harm to the character and appearance of the host property, local views including those from Primrose Hill, the nearby Primrose Hill Conservation Area and the setting of adjacent listed buildings, contrary to policies D1 (Design), D2 (Heritage) and A2 (Open space) of the London Borough of Camden Local Plan 2017."*

85. In addition to the potential for the Appeal Proposal to impact to the appearance of the host property, Primrose Hill (conservation area and Metropolitan Open Land) and the setting of listed buildings; the Appellant considers that the site selection rationale and whether the "less than substantial harm" caused to heritage assets is outweighed by public benefits (paragraph 196 of the NPPF), are also key considerations which will be addressed in this section.

86. The Delegated Report advises that the Appeal Proposal would not result in significant harm to residential amenity which the Appellant concurs with.

> *"Officers note that residents of the top floor flats have raised concerns with regard to proximity of the equipment to two existing roof lights. However, the size and location of the proposed equipment is not considered to have any significant on the amenity of neighbouring residents in terms of loss of light, outlook or privacy"* (para. 2.4)

87. The Delegated Report also advises that the application was supported by an ICNIRP certificate which declares that the Appeal Proposal has been designed and would be operated in accordance with guidelines set by the International Commission on Non-Ionising Radiation Protection (ICNIRP). In accordance with the NPPF paragraph 116, the matter of health does not need to be considered any further. The Appellant agrees with the Local Authority on this matter.

5.1: Permitted Development

88. The Appeal Proposal is permitted development under Part 16 of Schedule 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Specifically, development by electronic communications code operators consisting of installation of electronic communications apparatus onto a building. The development does not exceed the relevant permitted development limitations as set-out under section A.1 (2).

89. The proposed cabinets are permitted development and no not require an application for Prior Approval. They are shown on the proposed plans for context only. The antenna support structures are permitted development subject to applying for a determination as to whether the prior approval of the authority will be required, as to the siting and appearance of the development (condition A.3). The Local Authority has not refuted this principle and determination process.

90. In determining an appeal for a such a prior approval application, an Inspector clarified that:

> "***The permission granted under the GPDO is equivalent to an outline planning permission and the Council's considerations of the matter are limited to the effects of the development arising from its siting or external appearance, not the principle of the development.*** *Although the site is within the Green Belt, it seems to me, therefore, that there is no scope to consider whether the scheme represents inappropriate development in the Green Belt, or whether very special circumstances need to be demonstrated to justify the granting of approval."* (Ref. APP/C3430/A/12/2172974) (emphasis added)

91. In this regard, it is considered appropriate that the remaining sub-sections of this titled section assess the Appeal Proposal against the matters of siting and appearance with specific consideration to the reasons for refusal which relate to impact on the character and appearance of the host building, impact on Metropolitan Open Land and on the settings of the conservation area and listed buildings; with consideration of other relevant matters comprising site selection rationale and whether harm is outweighed by public benefits.

5.2: Siting

Impact on Character & Appearance of the Building

92. The photographs of the Appeal Site, Appendix 4 to this statement, are a useful tool for assessing the impact of the Appeal Proposal arising from its siting and appearance. The photographs show the view towards the Appeal Site from 6No. street-level viewpoints, selected to be representational of the prominent views that would be experienced by receptors as they pass through the surrounding area.

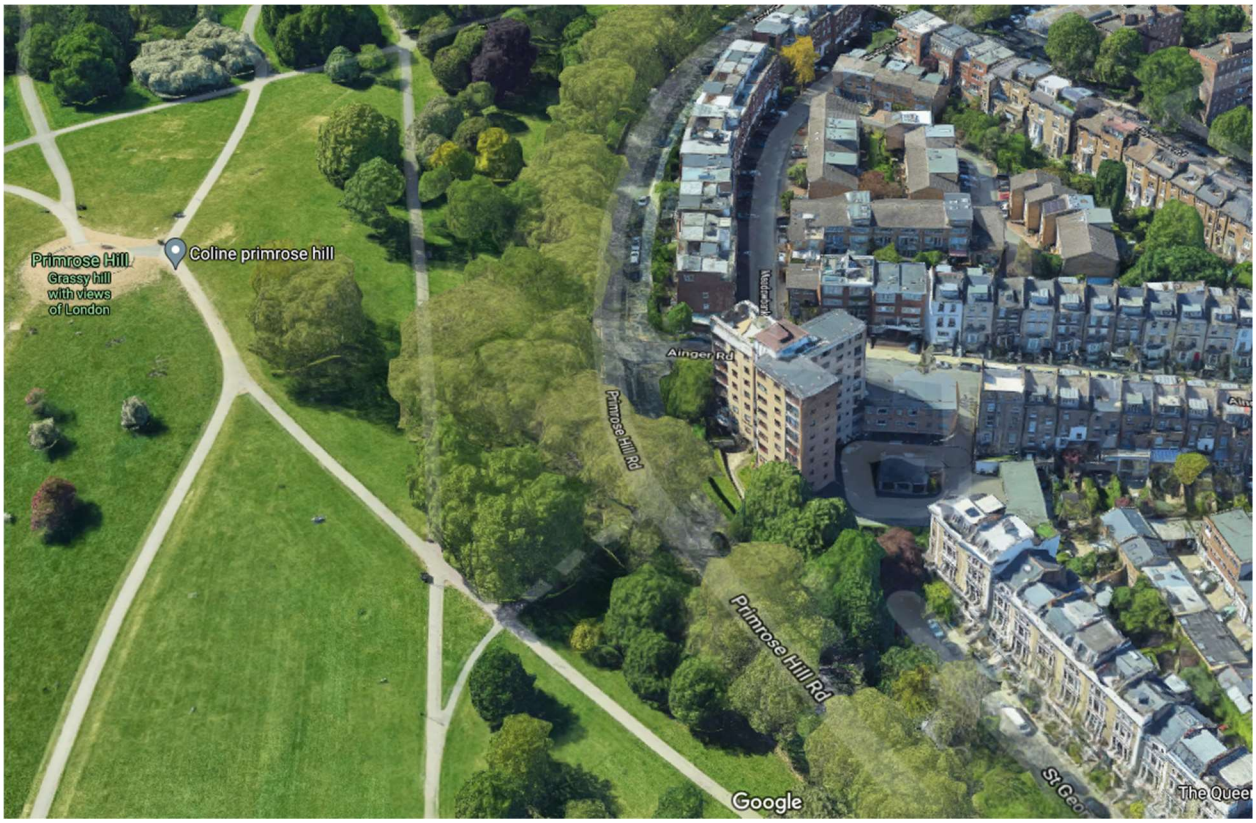
93. In response to the Local Authority's assessment that *"The number of the antennas on poles results in a proliferation of visual clutter at roof level. The central justification is that the building is the most prominent structure in the area, which is also the main contention with siting the equipment here. The 3m height of the poles is considered very prominent, together with the additional equipment at the bases of antennas, which are over 1m above the flat rooftop. While it is acknowledged that the number of antennas have been reduced since the previous application, the height and position remain the same. Given that the building is considerably higher than anything else around it and located on a prominent corner plot at the junction of two roads with clear visibility from all sides, the proposal would result in a cluttered roofline. Given the building's location, it is unlikely that moving the antennas further into the middle of the roof would significantly reduce their visibility"* (Delegated Report, para. 3.4), the reader's attention is drawn to Photo Positions #1, #2, #3 and #4.

94. Photo Positions #1, #2, #3 and #4 show that the building's existing steel handrails, installed around the edge of the rooftop, as well as the rooftop façade which forms part of the roof garden on one section of the rooftop (see Photo Position #4), are visible from the surrounding area. While it is acknowledged that the Appeal Proposal would result in a notable change to the roofline, the existing steelwork and façade structure do, nevertheless, provide a roofline which is not completely uniform. The fact that the proposed steelwork of the antenna support structures would be viewed

against the existing steel handrailing, would soften the degree of visual change to the appearance of the building, relative to if the handrailing was not present.

PHOTO POSITION #4

95. Furthermore, it is observed that the Appeal Site is a building that is somewhat irregular in its architectural shape. It could be described as a juxtaposition of 3No. rectangular shaped boxes, coming together at a central lift motor room that is elevated above the main roof level. It is this nature of the building which, it is asserted, would encourage the proposed additions to assimilate without causing significant harm to its character and appearance. The 3D image below shows the shape of the building and also the dense nature of the vegetation (shown when in leaf) that separates the Appeal site from Primrose Hill Park, providing a high degree of screening or filtering of views towards the Appeal Site.



3D image of Appeal Site. Image source: Google.

96. In response to the Local Authority's assessment that *"The 6 antennas would be installed on the edge of two most northern and two most southern corners of the existing roof and would be highly visible from the surrounding area. The number, height and location of these poles will make the equipment very prominent and clearly visible in long and short range views from Primrose Hill Road, Ainger Road and Primrose Hill itself"* (Delegated Report, para. 3.4), the reader's attention is drawn to Photo Position #1.

97. Photo Position #1 is taken from Primrose Hill Road and shows what could be considered the principle building elevation, accommodating the 'Hill View' sign affixed to the building wall. The proposed equipment layout means that there is likely to be up to 2No. antennas (out of the 6No. proposed) visible from that short distance viewpoint. The modest amount and scale of the 2No. antennas and supporting structures that would be visible, rising 3m above the main roof-level but not above the central lift motor room structure, should not be considered "very prominent" as assessed by the Local Authority. Particularly given the white coloured antennas would be viewed

against the background sky and the white coloured panelling and facia board on the Appeal Site building.

PHOTO POSITION #1

98. Photo Position #2 shows is taken from further east on Primrose Hill Road, at the junction of Regents Park Road, and shows that contrary to the Local Authority's assessment, long-distance views from Primrose Hill Road are largely screened owing to the presence of mature trees lining the road which would serve to either completely screen or at least heavily filter views of the equipment, depending on whether the trees are in leaf. The presence of evergreen trees in the views towards the Appeal Site from Photo Position #2 is highlighted as a feature that helps to reduce impact on the appearance of the building all year round.

PHOTO POSITION #2

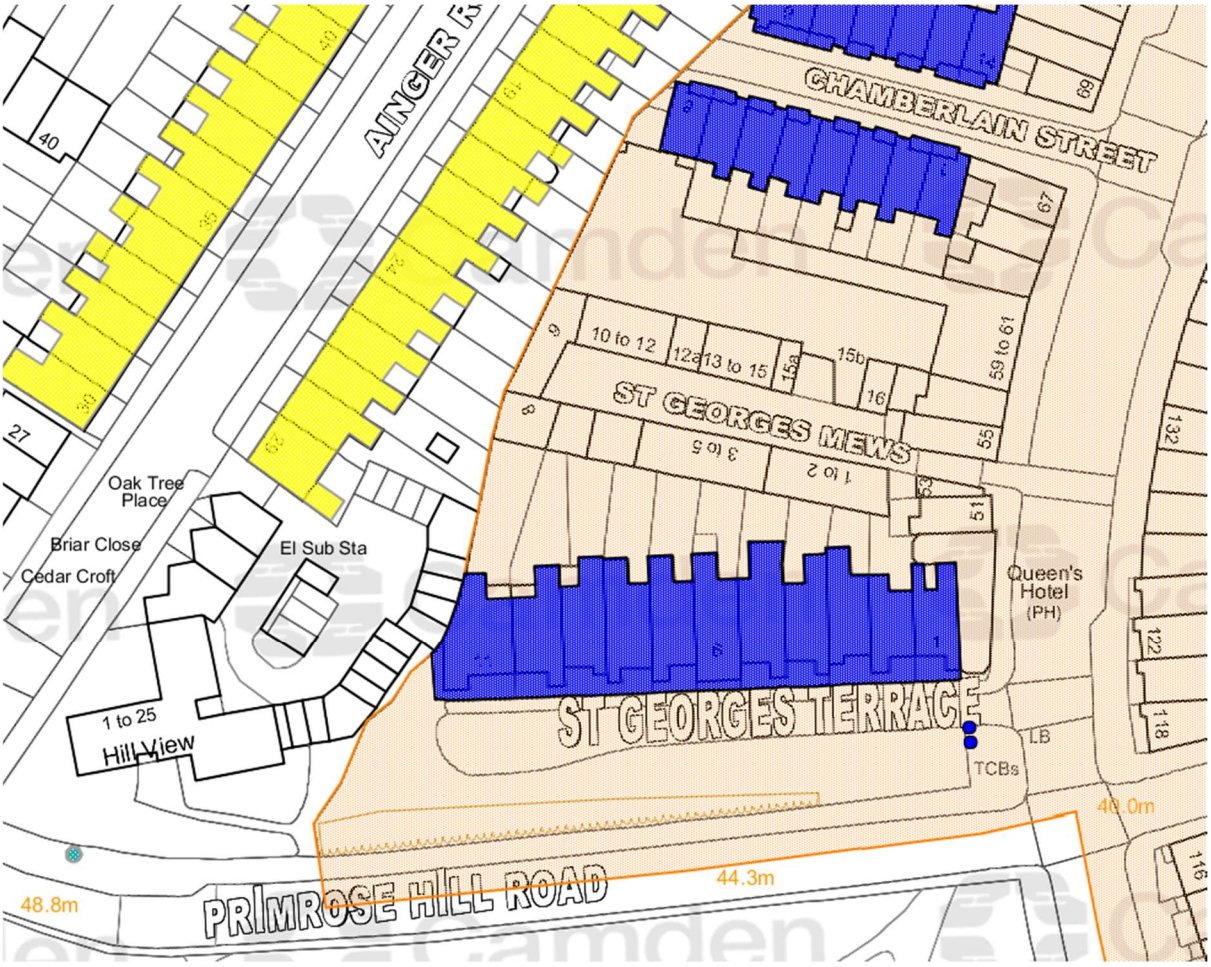
Impact on the setting of the Conservation Area

99. The Appeal Site is located near to the Primrose Hill Conservation Area. The Primrose Hill Conservation Area Statement (Camden Council, 2000)20 identifies the significance of the historic asset:

"[the area] is made up of a series of well laid out Victorian terraces. It is residential in character, although there are a number of local industries, and it has its own shopping centres, a primary school and, because of the vicinity of Primrose Hill, is extremely well provided with open space" (p5)

100. The Delegated Report assesses that *"The proposed telecommunications equipment is therefore considered to cause unacceptable harm to the character and appearance of the adjacent Primrose Hill Conservation Area on account of its prominence in the roofscape, where it would be highly noticeable against the skyline and clearly visible from public views. The antennas would upset the largely uniform and uncluttered roofs when viewed from within the Conservation Area along Primrose Hill Road and Ainger Road and would appear unsightly when viewed from the Primrose Hill MOL".* (para. 3.5)

[20] Conservation Area Statement - link



Appeal Site 'Hill View' in relation to Primrose Hill Conservation Area boundary (orange) and listed buildings (blue). Image source: London Borough of Camden

101. In response to the Local Authority's assessment that *"The antennas would upset the largely uniform and uncluttered roofs when viewed from within the Conservation Area along Primrose Hill Road and Ainger Road",* the map above shows that Ainger Road <u>does not</u> form part of the conservation area. Impact on views from said location should therefore not be material with respect to preserving the setting of the conservation area.

102. Photo Position #2 is taken from the southern side of Primrose Hill Road which is outside of the conservation area designation. Analysis under para. 98 of this statement shows that the equipment is not expected to be highly visible from that viewpoint. From Photo Position #2, it can be seen that views from across the road, from the northern side of Primrose Hill which *is* inside the conservation area, would benefit from an even higher degree of vegetation screening

<u>Impact on the setting of Listed Buildings</u>

103. The Appeal Site is located near to a row of grade II listed buildings located to the east of the site on St Georges Terrace (list entry no. 1245862). The Historic England list entry identifies the significance of the heritage asset:

"Terrace of 11 houses. c1852. Pale yellow stock brick with channelled stucco ground floors and quoins and dressings. 3 storeys and basements. Nos 3 & 9 slightly recessed and originally of 2 storeys. 1 window each. Ground floor tripartite sashes mostly with enriched cast-iron window guards. Each house has a prostyle Doric porch (Nos 5 & 6 paired) supporting a continuous stuccoed balustrade to tripartite 1st floor window with screen of 4 half-columns with enriched capitals supporting an entablature the cornice of which supports a balustraded window guard to tripartite 2nd floor window with pilaster screen and entablature. 3rd floor windows tripartite architraved round-arched with keystones. Heavy bracketed and enriched stucco cornice. INTERIORS: not inspected. SUBSIDIARY FEATURES: attached cast-iron railings with spearhead finials to areas."

104. The Delegated Report assesses that "the cluster of antennas located on the southern corners of the roof would be clearly visible in views westwards along St Georges Terrace and their overall appearance, quantity and visibility is considered to cause harm to the historical setting of the listed terrace." (para. 3.5), the reader's attention is drawn to Photo Position #3.

105. The proposed equipment layout means that there is likely to be 2No. antennas (out of the 6No. proposed) visible from the highway outside of St Georges Terrace. This includes short and long-distance views from the terrace. The same principles would apply to the analysis given for Photo Position #1, in that the amount and scale of equipment visible, which would be viewed against the white/grey coloured facia board (complimenting the white finish of the antennas) and existing hand-railings (complimenting the proposed supporting steelwork), is likely to result in a low-level of harm to the setting of the terrace. The Local Authority agrees that the level of harm would be "less than substantial" (NPPF, para. 196) and, as such, Sections 3.1, 3.2 and 5.4 of this statement aim to demonstrate that the need and public benefits of the Appeal Proposal were underestimated by the Local Authority and in fact these considerations would outweigh the less than substantial harm to heritage assets.

106. The photographs show that there would in fact be limited views from surrounding streets in which the development would be clearly visible. The presence of high-level and mature trees at the roadside, and other buildings in the surrounding area, serve to either screen or provide a good degree of filter from most views towards the Appeal Site, including those views from inside the conservation area.

107. It could reasonably be concluded that the setting of the Primrose Hill Conservation Area, and the setting of the listed St Georges Terrace, would not be highly impacted. Any harm caused would be in isolated views towards Appeal Site and would be "less than substantial". Therefore, in accordance with paragraph 196 of the NPPF, such harm must be weighed against the public benefits of the proposal which, in this case, are far reaching as set out under Sections 3.1 and 3.2. It is considered that the public benefits outweigh the less than substantial harm to the settings of heritage assets.

PHOTO POSITION #3

Impact on the setting of Metropolitan Open Land & Registered Park and Garden

108. The Appeal Site is located opposite Primrose Hill Park which is designated Metropolitan Open Land and a Registered Park and Garden. In response to the Local Authority's assessment that *"[the antennas would] appear unsightly when viewed from the Primrose Hill MOL"* (para. 3.5), the reader's attention is drawn to Photo Positions #5 and #6, both taken from inside Primrose Hill Park.

109. Photo Positions #5 is from Primrose Hill itself which occupies an elevated position in the park, offering views towards London city. The photograph shows the presence of tree planting in the foreground of views towards the Appeal Site. The trees are notably higher than the Appeal Site and show the existing view at its most exposed when the trees are not in leaf (taken in March). It shows that the trees would serve to either completely screen, or at least heavily filter views of the equipment, depending on whether the trees are in leaf.

PHOTO POSITION #5

110. Photo Positions #6 is from a different position in the park where more of the Appeal Site visible, relative to #5. Regardless, the proposed layout would result in just 2No. antennas being fully visible. The amount and scale of apparatus proposed, relative to the scale of the wider building, and after factoring the diminishing of visual prominence over what is a mid to long-distance view, could lead to the conclusion that the setting of the park would be largely preserved. Please also refer to para. 64 of this statement under 'Local Planning Policy' for comments on whether Metropolitan Open Land policy is material to Prior Approval applications.

PHOTO POSITION #6

Site Selection

111. Section 3 of this statement explains the need for the Appeal Proposal and that it must be installed at a location which will enable its radio coverage to reach areas where improvement is required. Therefore, location is a key factor of site selection. Other site selection criterion includes the need to site equipment on a building that is sufficiently high enough to enable the antennas' radio signal to clear surrounding structures, such as trees and buildings, and reach the targeted areas. The building must be of a design which will enable a feasible engineering solution for affixing the apparatus, and thereafter be accessible for occasional maintenance. Buildings which are listed for their historic significance or located inside a conservation area, for example, are not preferred options with consideration to preserving historic assets when there is a suitable site available which does not have these designations I.e. the Appeal Site.

112. The Appeal Site was found to be the only suitable building that is capable of meeting design and site selection criteria to achieve reliable critical mobile digital connectivity to the surrounding area. The application's Site Specific Supplementary Information document detailed 12No. alternative sites that were considered and deemed unsuitable, or less preferable, due to a variety of reasons including because of failing to meet one or more of the aforementioned criteria.

113. In relation to consideration of alternative sites, this recent telecoms appeal decision by the Inspectorate clarifies that it is not always necessary to consider other sites in detail:

"I note the Council's reservations regarding the appellants' list of alternative sites, and to that extent I accept that the appeal site has not been shown conclusively to be the least environmentally damaging option possible. But the National Planning Policy Framework (NPPF) does not support that approach. Given that I have found no significant harm, it is unnecessary to consider other alternatives in any more detail" (Ref. APP/B5480/W/20/3251086) (see Appendix 3d for full decision)

5.3: Appearance

114. The design and appearance of the Appeal Proposal is based on the principle of meeting operational requirements, whilst minimising impact on the visual amenity of the surrounding area as far as practicable. The design is commonplace at thousands of mobile base-stations sites installed on rooftops across the United Kingdom.

115. Each element of the proposed equipment contributes to either the engineering of the base-station, its operation or its safe maintenance. Section 2.3 explains the purpose of the various elements, all of which are essential. Functionality plays a lead role in the scale and form of the equipment; and consequently, limits the availability of options to alter its overall appearance. The equipment is a type of infrastructure and this is reflected in its appearance.

116. The proposed antennas would have a white/light grey colour finish, which is the industry standard and encourages reduced contrast with the background sky that they would be viewed against. In the same regard, the rooftop equipment cabinets would be coloured light grey and modest in scale relative to the size of the building, and particularly because they would be viewed against

the adjacent central plant room structure which equals their height above the main roof level. The cabinets have been shown not to be visible in most views towards the building.

117. The supporting steelwork would have a galvanised-steel finish which would naturally weather and increasingly assimilate into its background setting over time. Overall, the equipment would have an indistinct and forgettable appearance, aiming to not draw the attention of people passing by at street-level or from Primrose Hill Park.

5.4: Weighing harm against public benefits

118. The Appeal Proposal must be tested against paragraph 196 of the NPPF:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use." (emphasis added)

119. The Delegated Report confirms the Local Authority's agreement that harm to heritage assets would be less than substantial:

"Given the assessment outlined above, it is considered that ***the proposed telecommunications equipment would result in 'less than substantial' harm to the character and appearance of the Primrose Hill Conservation Area and the setting of the listed properties on St Georges Terrace****. It is recognised that the proposed scheme would result in better network coverage, and as such, some public benefit would be derived from the scheme. However, weighing the harm caused as a result of the development against this public benefit, the proposal is considered to be contrary to Section 16 of the NPPF which seeks to preserve heritage assets."* (para. 4.3) (emphasis added)

120. Through the preceding sections of this statement which have assessed the various matters relevant to siting and appearance, it could reasonably be concluded that harm the settings of the Primrose Hill Conservation Area and listed buildings would be less than substantial. This was the conclusion reached by the Local Authority too. Accordingly, this less than substantial harm must be weighed against the public benefits of the proposal which, in this case, are far reaching as set out under Sections 3.1 and 3.2 of this report, with particular consideration to paragraph 112 of the NPPF:

"Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections."

121. In conclusion, it is considered that the public benefits outweigh the less than substantial harm to heritage assets and as such approval should have given by the Local Authority.

Section 6: Other Material Considerations

6.1: Appeal Decisions

122. Appeal decisions by the Planning Inspectorate can be of material consideration in the determination of planning applications and appeals. The cases below are examples where the Inspector awarded notable weight to the improved network coverage and capacity arising from new telecommunications development. The Appeal Proposal is required in order to deliver the same improvements.

123. These cases relate to installation of ground-based masts inside conservation areas, unlike the Appeal Site which is for building-based apparatus at a site that is not inside a conservation area, making the Appeal Site sequentially preferable.

124. Appeal case a) is particularly similar to the Appeal Proposal in that the appeal was allowed for installation of 12No. antennas (6No. at the Appeal Site) onto a building rooftop through the use of multiple support poles. In the same regard as the Appeal Proposal, a key consideration of that appeal case was preservation of heritage assets including the appearance of a conservation area. Both sites are located in Greater London so therefore share the same development plan, in part. See Appendix 3 for all appeal decisions in full. Emphasis added to quotes.

a) APP/V5570/W/20/3251047 - Telefonica UK Limited appeal against the Council of the London Borough of Islington (November 2020)

'there would be a considerable public benefit arising from the provision of improved digital communications networks in this busy commercial area, and I consider that this ***carries significant weight.'*** In exploring the planning balance, the inspector found *'the proposal would fail to preserve or enhance the character or appearance of the Bunhill Fields and Finsbury Square Conservation Area, and would cause less than substantial harm to the significance of the Conservation Area as a designated heritage asset.*

In this respect I have also found conflict with planning policies, and indeed the proposal would conflict with the development plan as a whole' and 'However, I have also found that ***a significant public benefit would be delivered through the provision of improved mobile communications networks, which would outweigh the limited harm to the heritage asset which I have identified. The material considerations therefore indicate that, in this case, the proposal should be determined other than in accordance with the development plan.****'*

125. Appeal case b) is noteworthy due to the recognition by the Inspector that the COVID-19 pandemic has increased the public's reliance on mobile communications to such an extent that digital connectivity is classified by government as a critical sector. The Appeal Proposal is for essential new infrastructure in this critical sector.

b) APP/A1910/C/20/3256772 & APP/A1910/C/20/3256773 - Telefónica UK Limited appeal against Dacorum Borough Council (December 2020)

*'**The reliance on telecommunications has been tested and heightened during the current Covid-19 pandemic with the whole country subject to lockdowns and various restrictions**. This has meant people have been being advised to work remotely from home wherever possible; education at schools, colleges and universities has depended more on on-line teaching and learning; there has been increased dependency for shopping and medical and other appointments. There has also been increased use and dependency on accessing and using mobile devices for social interaction and staying connected with friends and family, especially important for those who have been shielding or who are self-isolating.*

*The government's advice during the pandemic recognises that "Now, more than ever, the country is reliant on fixed line and mobile communications networks. And as a result, **telecommunications has therefore been included as one of the critical sectors in new government regulations and legislation in response to dealing with the COVID-19 outbreak**'*

126. Appeal case c) is similar to the Appeal Proposal in that they both propose installation of telecommunications apparatus onto a residential building located in Camden. Both sites are unlisted but are in the setting of a conservation area. The Inspector concluded that the less than substantial harm to the heritage asset would be outweighed by the public benefits.

c) APP/X5210/W/20/3254104 - Cornerstone and Telefonica UK Ltd and Vodaphone Ltd appeal against the Council of the London Borough of Camden (September 2020)

*36. The NPPF makes clear the Government's support for the roll-out of high quality and reliable communications infrastructure, and the appellants' evidence includes a number of publications which reinforce the general need for good and reliable mobile phone and broadband coverage and connectivity. Such a need is even more apparent, the appellants go on to say, at a time of enforced physical separation between people during the coronavirus pandemic, a state of affairs which seems likely to continue for the foreseeable future. **The Government's support for telecoms infrastructure is inextricably linked to its economic recovery and growth agenda. When the extent of people's use and expectations of communications services is taken into account, ensuring adequate coverage at all levels must be considered a driver for both economic and social good, as paragraph 112 of the NPPF indicates.***

37. The appellants say that the apparatus is to operate as a base station in order to improve their communications coverage and mobile capacity in the surrounding area. Paragraph 116 of the NPPF indicates that it is not for planning authorities to question the need for electronic communications systems. The appellants explain that Vodaphone not having an existing base station in the locality is causing parts of Haverstock and Kentish Town to receive an inadequate level of service provision. This is supported by evidence of coverage plots. That of Telefonica is said to be below optimum. The proposal would, it is said, improve coverage and capacity for both operators. None of this evidence is challenged by the Council.

38. ***It therefore follows that both the general and the local desirability of ensuring an adequacy of coverage and capacity must weigh in the balance as significant public benefits of the proposal and I cannot agree with the Council's characterisation of them as "modest".*** *I have identified harm to the character of the CA. The CA is a designated heritage asset and views along Rhyl Street towards a building to which, as I have indicated, the eye is drawn, has an effect upon its significance as such an asset, as a mainly quiet, intimate residential neighbourhood of traditional 19thC dwellings. That the apparatus and its enclosure would intrude into such views causes harm to its significance. However,* ***bearing in mind the provisions of paragraphs 195 and 196 of the NPPF, the harm must be regarded as less than substantial. Accordingly, I am required in any event to weigh them against the public benefits of the proposal****.*

39. When such a balancing exercise is undertaken, on the harm to the CA and in any wider sense, the public benefits of the proposal must outweigh any identified harm. I bear in mind that the NPPF favours building-mounted telecoms apparatus where that is appropriate.

6.2: Local Planning Decisions

127. Whilst each planning application is judged on its own merits, there are marked similarities between the Appeal Proposal and the development that was the subject of Prior Approval application reference 2020/3958/P, approved by the Local Authority on 15th October 2020.

128. Both proposed installation of 6No. radio antennas and associated equipment onto high-level buildings in residential use. Both sites are located in the setting of a conservation area. And both developments are required in order to provide critical digital infrastructure. It is acknowledged that the building which is the subject of the approved application is notably higher than the Appeal Site.

129. Despite the similarities of the proposals, a review of the associated Delegated Reports suggests that the Local Authority was inconsistent in its reasoning regarding certain matters. Paragraph 2.2 of the Delegated Report for the Appeal Proposal:

"2.2 Camden Planning Guidance states that existing masts, buildings and other structures should be used unless the need for a new site has been demonstrated. The applicant has identified alternative sites within 350m of the application site which were not chosen for reasons mainly regarding the resulting height. ***This is not considered sufficient to demonstrate a new site in this location is necessary"*** (emphasis added)

130. By contrast, the Delegated Report for the approved application states:

2.2. There is a need for enhanced coverage, enhanced coverage for 4G in and around the Belsize area. This is demonstrated by the submitted plot coverage maps within the Supplementary Information document (SSSI) page 5 shows '4G coverage'. Notably the coverage plots show that this residential area has in-car or indoor suburban coverage, whereas the proposal results in improved indoor dense urban coverage….

2.4. The NPPF requires consideration to be had of siting proposed equipment on existing masts in the area and requires the overall numbers of masts to be kept to a minimum required for

efficient network operation. CPG Digital Infrastructure (March 2018) encourages the use of existing masts, buildings and other structures for new telecoms equipment proposals. As part of the site search in the supporting documentation (SSSI page 14-15), the ***applicants have referenced 9 other sites and buildings, but states that these are considered unsuitable for radio coverage or inappropriate as the equipment would result in greater visual impact than the currently proposed one, or coverage would be impacted due to close proximity to taller buildings of Taplow****'.*

2.5. The potential sites are considered in terms of their technical suitability to provide the required level of service, the effect on visual amenity and their ability to be acquired, built and maintained. The aim of site identification is to find the most technically efficient site, which has the minimum impact on visual amenity. A balance between technical efficiency and visual amenity must be achieved. ***The applicant has undertaken a search process during which all reasonable potential alternatives siting options have been discounted. The local planning authority has no evidence to discount the reasons presented****."*

131. It is highlighted that the application for the Appeal Proposal was also accompanied by coverage plots which show the present deficiency in 4G coverage which help to explain the need for a new base-station to be located in this part of Camden. Furthermore, the Site Specific Supplementary Information document for the Appeal Proposal referenced 12No. alternative sites that were considered and subsequently discounted for reasons which included poor coverage due to the subject building being too low to achieve the required radio coverage. This leads to the question: why was the Local Authority satisfied with the evidence for site selection in the approved application but for the Appeal Proposal was not satisfied that a new site was required at the location proposed.

132. Paragraph 4.3 of the Delegated Report for the Appeal Proposal states:

"it is considered that the proposed telecommunications equipment would result in 'less than substantial' harm to the character and appearance of the Primrose Hill Conservation Area and the setting of the listed properties on St Georges Terrace. ***It is recognised that the proposed scheme would result in better network coverage, and as such, some public benefit would be derived from the scheme****. However, weighing the harm caused as a result of the development against this public benefit, the proposal is considered to be contrary to Section 16 of the NPPF which seeks to preserve heritage assets"* (emphasis added)

133. By contrast, paragraph 3.4 the Delegated Report for the approved application states:

"While the clean roofline of the building would be somewhat undermined, this is not sufficiently harmful or obtrusive to would warrant a refusal. The antennas would be coloured grey as this would reduce the capacity of the equipment to draw the eye when viewed against the sky. The local ***planning authority must also consider the public benefits of increased 5G connectivity*** *against the alteration to the otherwise clean roofline."*

134. It is noted that when awarding weight to the public benefits of the Appeal Proposal, the Local Authority understates this as "some public benefit" of better network coverage, as opposed to the significant recognised public benefits of increased 5G connectivity arising from the proposed

critical mobile digital infrastructure. In actual fact, both proposals will deliver the same public benefits associated with the provision of improved 2G, 3G, 4G and 5G coverage and increased network capacity at identified locations where its need is critical.

Section 7: Summary

135. The Appeal Proposal would fulfil an identified need to improve the communication services of Telefonica and Vodafone's electronic communication network, including by introducing the provision of 5G services. And in doing so, the proposal would deliver notable social, economic and environmental benefits which are in the public interest.

136. The global Covid-19 pandemic has exacerbated the already high-level of demand on UK mobile networks. The Appeal Proposal would contribute to increasing network capacity and capability for two of the UK's main licence operators, providing improved services to a high number of users in the surrounding area, including residents, businesses and commuters. Crucially, provision of advanced digital communications will also play a significant role in the economic recovery from the pandemic.

137. These benefits would be provided through the establishment of a shared base-station onto an existing building, consistent with NPPF policy. The development proposed in the minimum amount and scale possible, consistent with the need to meet operational requirements. The Appeal Site was found to be the only suitable building that is capable of meeting design and site selection criteria to achieve reliable critical mobile digital connectivity to the surrounding area.

138. The Appeal Proposal is permitted development subject to seeking the Local Authority's approval for its siting and appearance only. In this regard, it has been demonstrated the proposed siting is appropriate with respect to not dominating views from the surrounding area and with consideration to the functionality of the equipment's appearance.

139. There is strong support for the provision of reliable and advanced communications infrastructure in the Development Plan and in the London Plan 2021 in particular. The National Planning Policy Framework, and other material documents, also support the expansion of communication networks. Other material considerations include relevant appeal decisions which weigh in favour of the proposal.

140. Significantly, it is considered that the public benefits of the Appeal Proposal outweigh the less than substantial harm to heritage assets and as such, in accordance with paragraph 196 of the NPPF, approval should have been given by the Local Authority. For these reasons, the Inspector is respectfully requested to allow the appeal and give the Appeal Proposal its Prior Approval.