

Appellant reference: CTIL_20832821, TEF_64699, VF_013798-APPEAL
LPA application reference: 2020/4214/P
Appeal reference: APP/X5210/W/21/3274361

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

Appellant's comments on the Local Authority's Statement of Case & Third-party Representations

On behalf of Cornerstone, Telefonica UK Limited & Vodafone Limited

The appellant's comments on the Local Authority's Statement of Case relating to London Borough of Camden Council's decision 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

Prepared By: Waldon Telecom Ltd of Phoenix House, Pyrford Road, West Byfleet, Surrey, KT14 6RA

Section 1: Introduction

1. This document details the Appellant's comments on the matters raised in the Local Authority's Statement of Case, received from the Local Authority with a letter dated 29th September 2021, as well comments on third-party representations received on the same date.

Section 2: Appellant's response

"Identifying a suitable location which would meet the operators' requirements and would be acceptable both in planning terms is clearly challenging. As the appellant and NPPF state the need for the electronic communications system and site selection process is not for council to address. The NPPF 2019 section 10 para. 115 and Camden Planning Guidance CPG Digital Infrastructure state that existing masts, buildings and other structures should be used unless the need for a new site has been demonstrated to the satisfaction of the Council and that the Council aims to keep the numbers to a minimum consistent with the efficient operation of the network. As this is a new site the selection process provided by the appellant identified ground level and buildings of lower height. While this provides evidence of exploring the possibility of other sites, there is no evidence that all possibilities have been explored." (para. 4.3, authority's statement)

2. The Local Authority's acknowledgement that delivering digital infrastructure is challenging, is agreed and welcomed. It is particularly challenging inside authorities such as Camden where a large proportion of the authority forms part of a heritage asset or other designation. The Camden Council website informs that the authority has 40 conservation areas covering around 50 per cent of the borough¹, as well as over 5,600 nationally listed buildings². The fact is that the proposed infrastructure must be sited in the area where the improved communication coverage, and additional network capacity, is needed. Densely populated areas, such as Camden, will therefore require more of this infrastructure than rural areas. If planning policy objectives to improve the provision of digital services are to be met, as set out in para. 114 of NPPF & Policy SI 6 of the London Plan 2021, for example, then it is inevitable that such infrastructure will need to be sited near to designated historic assets, or other land designations such as Metropolitan Open Land. As is the case with the Appeal Site that is located in the setting of a conservation area and listed buildings, unavoidably, because it is the people that live, work or commute through these designations that require the improved communication services.
3. In relation to site selection, application document 'Site Specific Supplementary Information' detailed 12No. alternative sites that were considered but found to be unfeasible options, or less preferable than the Appeal Site. Such a number of sites is considered to be a reasonable amount and the authority's criticism that not all possible sites were explored seems to be an unjustified and unreasonable requirement. This was the stance taken by the Inspectorate in a telecoms appeal in 2021:

¹ Camden Council website, conservation areas: <https://www.camden.gov.uk/conservation-areas>

² Camden Council website, conservation areas: <https://www.camden.gov.uk/listed-buildings>

"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)

4. Please refer to the Appellant's Statement of Case, sub-section 'Site Selection' (p41), for more detail on the above matter.

"Para. 113 of the NPPF (2019) ends stating that equipment should be sympathetically designed and camouflaged where new sites are required. This is a new site and would not be camouflaged. It would be sited to the perimeter edge of the roof line where it would be prominent in appearance". (para. 4.4, authority's statement)

5. In relation to para. 4.4 of the authority's statement, it is noted that para. 115 of the NPPF advises that equipment should be sympathetically designed and camouflaged "where appropriate". The Appeal Proposal has been as sympathetically designed as possible, commensurate with meeting operational requirements. The compromise in radio performance, by reducing from the preferred 12No. radio antennas in the application for prior approval that was refused first, now down to 6No. in the second application (Appeal Proposal), is testament to the effort to achieve a sympathetic design. Siting the antennas at the edge of the roof allows for minimal height elevation above the main roof-level; whereas siting the antennas more centrally would have required elevating the antennas well above the main roof-level on steel supports to meet operational requirements, causing a greater degree of chance to the profile of the host building and ultimately more visual harm. Please see enclosed 'Constraints and solutions for rooftop deployment' document.
6. Options for camouflaging such rooftop communications equipment are limited. The structural requirements for installation of screening, for example, would have required a steel frame which would have been higher, and significantly bulkier and more intrusive than viewing the antennas in their exposed form. The proposed white/light grey colour finish of the antennas, encouraging reduced contrast with the background sky; as well as viewing the proposed antennas' steel work in the context of the existing steel hand-railing, could both be considered forms of camouflage or assimilation. In accordance with para. 115 of the NPPF, the most "appropriate" forms of camouflage that are presently available were applied.

"The Council acknowledges that this type of apparatus is commonplace but this site location is not commonplace. On the contrary, the site is directly adjacent to a variety of heritage assets of the Listed St George's Terrace, Primrose Hill Conservation Area, Primrose Hill Metropolitan Open Land, registered park and non-designated heritage assets of the locally listed buildings on Ainger Road, as identified throughout this statement and shown in appendix ."

(para. 6.3, authority's statement)

7. The Inspector's attention is drawn to Sections 6.1 (p43) and 6.2 (p45) of the Appellant's Statement of Case for examples of digital infrastructure, of the type proposed, being allowed at sites either inside or in the setting of conservation areas, and located near to listed buildings. Please also see paragraph 2 of this document for further justification. This principle of needing to install infrastructure near to the people that need it, including near to those inside designated assets, is applicable to all designations. Please refer to Section 5.2 of the Appellant's Statement of Case for detailed consideration of the impact on the setting on the conservation area (p36), listed buildings (p37) and Metropolitan Open Land and registered park (p39).

"No additional elevation drawings have been submitted with the application or the appellants' submission. As no elevation drawing has been submitted, so we can solely infer from the photos and officer assessment how this would appear from the information provided on the proposed south-western elevation and proposed roof plan" (para. 6.3, authority's statement)

8. The Local Authority has not contended that a valid application for Prior Approval was submitted. The submission included a description of proposed works, as required by the General Permitted Development Order. The description included the height of the proposed 6No. steel masts that will support the antennas. Whilst not a requirement of the GPDO, the application submission included general arrangements plans in the form of existing and proposed site and elevation plans. It is considered that the description of works provided, along with the supplementary plans, allowed the authority to make a full assessment of the Appeal Proposal. The government's intention for the prior approval process may be considered relevant to this matter (emphasis added):

*"National permitted development rights have an important role to play in the planning system They provide a more streamlined planning process with greater planning certainty, while at the same time allowing for local consideration of key planning matters through a **light-touch prior approval process**. Permitted development rights can incentivise certain forms of development by providing developers with a **greater level of planning certainty**, within specific planning controls and limitations. National permitted development rights provide for a wide range of development and include measures to support and speed up housing delivery."³*

³ Explanatory Memorandum to the Town and Country planning (General Permitted Development) (England) (amendment) (No 3) Order 2020. No. 756. Para. 7.1:

https://www.legislation.gov.uk/uksi/2020/756/pdfs/uksiem_20200756_en.pdf

"The roof line of Hill View is a clear simple form line with a lift room to the centre. The proposed antennas would project significantly above the height of the main roof by 3m above the main roof and the cumulative visual effect of the poles, antennae and apparatus would be incongruous with the uncluttered, lines of the host property.

The height of the antennas would be equivalent to the height of an additional storey and the appellants' implication that the apparatus would be read as an additional storey is concerning. The building is acknowledged by the appellant as the tallest in the immediate locality, the 'additional storey' of apparatus would appear very visible and dominant in surrounding views along Primrose Hill Road, St George's Terrace, and from Primrose Hill open space." (paras 6.4 & 6.5, authority's statement)

9. The enclosed photomontage images (Viewpoint 1) shows that 2No. of the proposed antennas and 1No. micro-wave dish would be visible from that viewpoint at Hill View Road. The dispersed layout of proposed equipment spread across different elevations of the building, plus the presence of the higher-level lift motor room separating the different elements of the proposed equipment, limits the equipment's cumulative visual effect. It is argued that the resulting visual change to the appearance of the building, as demonstrated in Viewpoint 1, does not appear incongruous. It is considered that the 3m height of the antennas does not dominate the skyline, particularly because the antennas and their steel supports are viewed in the context of the existing steel railing and TV antenna. Please see additional photomontage images enclosed.



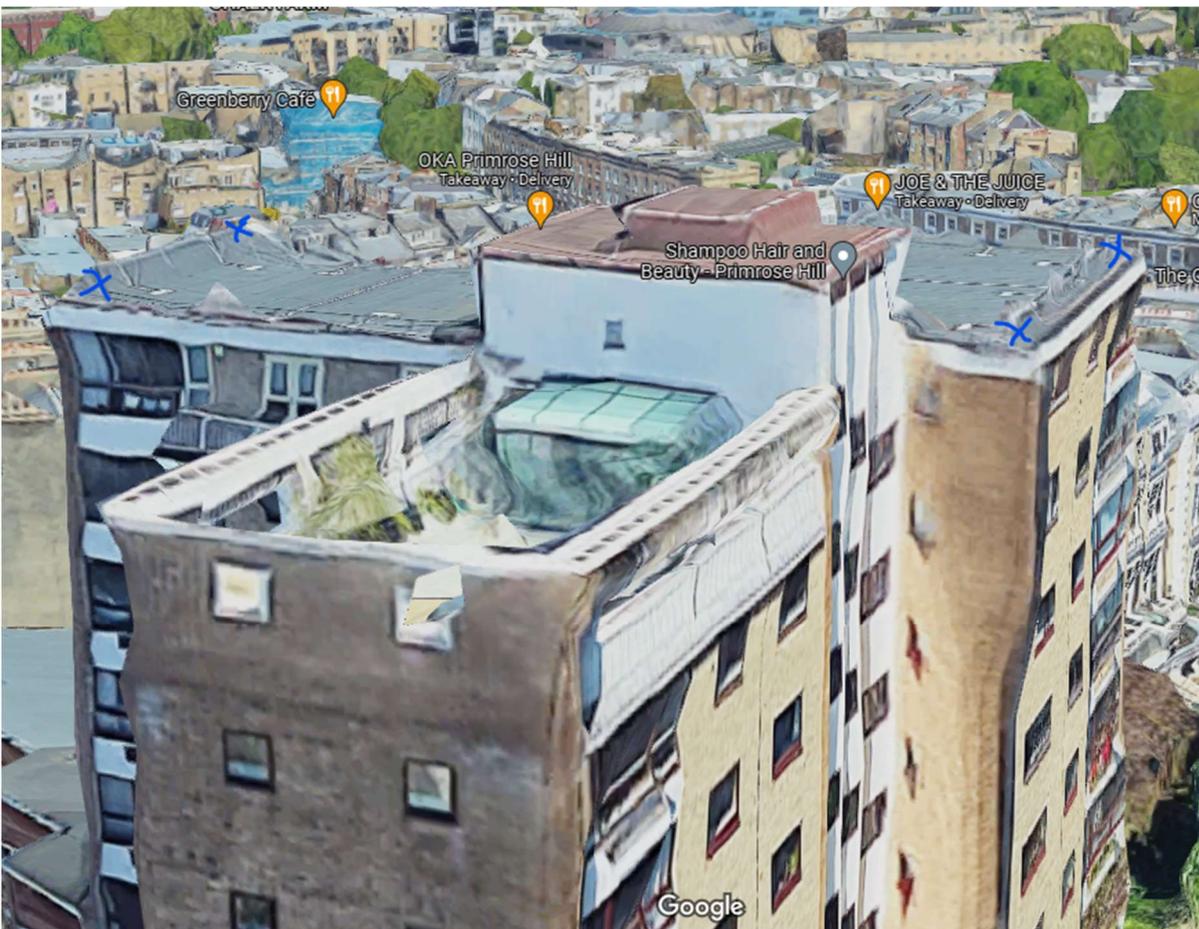
Photomontage – VP 1 (original montage enclosed)

"Whilst the appellant cites public need for their services and the NPPF is clear that the need for telecommunications systems should not be questioned. It can be understood that only generalised benefits to the public are identified and the proposal would only result in improved coverage to two of a number of mobile phone networks."
(para 10.2, authority's statement)

10. The public benefits identified in Section 3 of the Appellant's Statement of Case are either specific or directly applicable to the Appeal Proposal. 'Coverage and signal strength' (p7) of the Appellant's statement includes extracts from coverage plot images, showing the real-life deficiency in mobile coverage by signal strength, as is presently the case in the geographical area surrounding the Appeal Site. The modelled improvement in coverage resulting from the Appeal Proposal is also shown for both operators.
11. The importance of providing increased network capacity to the area surrounding the Appeal Site is highlighted under 'Network capacity' (p10). The high demand being placed on the network by the high concentration of mobile users at nearby localities such as at ZSL London Zoo and by commuters on the A-road and rail network to the north of the Appeal Site, is specifically identified. The broad range of applications for 5G technology that are discussed in the statement are relevant to the Appeal Proposal because it would be introducing these advanced services. The public benefits identified are not generalised, they are fully applicable to the Appeal Proposal.
12. Telefonica (O2) and Vodafone make-up two of the four major licensed mobile network operators in the UK. A high number of local residents, businesses, commuters and visitors to the area are dependent on receiving reliable digital connectivity from these two Operators. It would be unjustified to dismiss they're contribution to the UK's digital networks. It would also be inconsistent with the NFFP which does not distinguish between the number of operators providing services from a site when it states *"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"* (para. 114).

"However, since this decision, the Council has been made aware there is an existing external terrace to the west roof therefore the apparatus may have an impact on amenity, in terms of outlook. At approximately 6m above the terrace, the antennas and apparatus would be highly visible and overbearing those using the terrace."
(para 12.1, authority's statement)

13. The image below suggests that the lift plant room, towering 6.72m above the terrace roof-level, would continue to be the dominant feature experienced by users of the terrace. The separation distance between the antennas and the terrace, and the fact the antennas would not exceed the highest part of the plant room, leads to the conclusion that the antennas would be experienced as a secondary feature to the plant room, and they would not significantly impact the views from the terrace to the surrounding area.



3D image of roof terrace, antenna locations denoted. Image source: Google

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