

<b>Delegated Report (Refusal)</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>		<b>14/07/2021</b>	
		N/A		<b>Consultation Expiry Date:</b>		27/06/2021	
<b>Officer</b>				<b>Application Number(s)</b>			
Adam Greenhalgh				2020/4437/P			
<b>Application Address</b>				<b>Drawing Numbers</b>			
25-26, Hampstead High Street London NW3 1QA				See decision notice			
<b>PO 3/4</b>		<b>Area Team Signature</b>		<b>C&amp;UD</b>		<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>							
Installation of 3 antennas, 2 cabinets and ancillary works at roof level.							
<b>Recommendation(s):</b>		Refuse planning permission					
<b>Application Type:</b>		Full planning permission					
<b>Conditions or Reasons for Refusal:</b>		Refer to Decision Notice					
<b>Informatives:</b>							
<b>Consultations</b>							
<b>Adjoining Occupiers:</b>		No. of responses		0		No. of objections	
						0 No. of support	
<b>Summary of consultation responses:</b>		<p>Site notice: 28/05/2020 – 21/06/2020 Press notice: 03/06/2020 – 27/06/2020</p> <p>12 consultation responses were received. 10 raised objections and 2 gave support.</p> <p>The letters of objections were received from residential occupiers of neighbouring buildings (including The Gayton Residents Association, one of the freehold owners and the company owning the freehold of the application building). Objections raised related to:</p> <ul style="list-style-type: none"> <li>- Harm to the appearance of the building, streetscene and Hampstead Conservation Area</li> <li>- Health risks from telecommunications operations, i.e. electromagnetic waves. Non-compliance with ICNIRP guidelines</li> <li>- Harm/conflict with previous applications for roof-top terrace(s)</li> <li>- Incorrect address of proposal and description of the site</li> <li>- Impacts on living conditions (noise and privacy) of occupiers of flat(s) in building</li> <li>- Adverse effects on use of adjoining properties due to 'exclusion zones'</li> </ul>					

- Alternative, less harmful technologies exist; lack of benefit
- Breach of Equality Duty
- Breach of Human Rights
- Future pruning/removal of trees within range
- Structural impact on building

Officer response:

*The effects on appearance and the Conservation Area are considered in 'Design & Conservation' below. The effects on residential amenity including the use of the roof and living conditions in adjoining flats is considered in 'Effects on amenity of neighbouring occupiers' below.*

*All the other issues raised in the letters of objection are dealt with in 'Other Matters' below.*

The letters of support mentioned the following:

- Need for the installations; poor telecommunications coverage in Hampstead
- Lack of impact on appearance of building/Conservation Area

**CAAC/Local groups comments:**

The Hampstead Neighbourhood Forum object on the grounds that the proposals would adversely impact upon the approved roof terrace and harm the amenity of residents as a result.

**Site Description**

The application site is located on the north side of Hampstead High Street approximately 150m to the south east of Hampstead tube station. It comprises a 6 storey building (i.e. ground and five upper floors). The ground floor is occupied by a bank and there are flats on the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors. The proposal relates to the roof.

The site is located within the Hampstead Conservation Area. It is not a listed building. Both the immediately neighbouring buildings, nos. 24 and 27 Hampstead High Street are Grade II Listed buildings. Alterations have been undertaken to these buildings but no roof top telecommunications installations added.

**Relevant History**

2020/1774/P - Creation of new roof terrace, installation of a rooflight and replacement of the existing railings with glazed balustrades – granted 29/01/2021

2014/0609/P – (Prior approval) Change of use from office (Class B1a) to residential (Class C3) comprising 5 x 2 bed flats – approved

2014/5530/P – External alterations in association with the residential conversion of the building following recent prior approval application for the change of use from office (Class B1a) to residential (Class C3) (ref: 2014/0609/P)

2014/6270/P - External alterations in association with the residential conversion of the building following recent prior approval application for the change of use from office (Class B1a) to residential (Class C3) (ref: 2014/0609/P) including: replacement windows, removal of rear fire escape, replacement balconies and construction of footbridge linkage from rear yard area to rear elevation ground floor access and new fence, Construction of a roof terrace at first floor level.

## **Relevant policies**

Proposals for the installation of telecommunications equipment such as masts, cabinet boxes and satellite dishes, erecting antennae or other such structures will be determined in accordance with the National Planning Policy Framework (NPPF) 2021 - Section 10 – Supporting high quality communications

### **The London Plan 2021**

#### **Camden Local Plan 2017**

Policy A1 Managing the impact of development

Policy D1 Design

Policy D2 Heritage

#### **Camden Planning Guidance**

CPG Design (2021)

CPG Digital Infrastructure (2018)

#### **Hampstead conservation area appraisal and management strategy 2001**

Sub Area One – Heath Street/Hampstead High Street

Current Issues – Design, Quality Erosion, Roof Alterations

Guidelines – New Development

#### **Hampstead Neighbourhood Plan 2018**

DH1: Design

DH2: Conservation Areas & Listed Buildings

## **Assessment**

## 1.0 PROPOSAL

- 1.1 The proposed development consists of the installation of 3no. antennas, 2no. cabinets and ancillary works thereto: (1 no. cabinet with dimensions 600mm(w) x 600mm(w) x 1975mm(h); 1 no. cabinet with dimensions 700mm(w) x 730mm(w) x 1800mm(h)).
- 1.2 The equipment would be sited on the west, east and north sides of the roof, close to the edges and the antennas would be 2.7m in height. The equipment would be enclosed by hand rails.

## 2.1 ASSESSMENT

The material considerations for this application are summarised as follows:

- The principle of development
- Design and Conservation
- Amenity of neighbouring residential occupants

### 2.2 The principle of development

2.2.1 Camden Planning Guidance 'Digital Infrastructure' 2018 confirms that 'Proposals for the installation of telecommunications equipment such as masts, cabinet boxes and satellite dishes, erecting antennae or other such structures will be determined in accordance with the National Planning Policy Framework'. In line with the NPPF, the Council will support the expansion of electronic communications networks, including telecommunications and high speed broadband.

2.2.2 The NPPF and Digital Infrastructure CPG indicate that the numbers of radio and telecommunications masts and the sites for such installations should be kept to a minimum consistent with the efficient operation of the network. 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.

2.2.3 The applicant's Supporting Statement indicates that the proposals would be the 'minimum' form of development to enable the operator to achieve 5G coverage in the area. The Supporting Statement identifies 9 alternative locations which were considered for the proposed development. Reasons why all other alternative sites were discounted include: poor access, pitched roofs, Listed Buildings or poor coverage. The submitted evidence does not give technical details about why sites have been discounted and the Council is not convinced that all alternative locations have been thoroughly assessed sufficient to demonstrate that this is the only technically practicable location.

2.2.4 The Council will require applications for telecommunications development to be supported by the necessary evidence to justify the proposed development.

2.2.5 The evidence should include:

- the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college; and
- for an addition to an existing mast or base station, a statement that self certifies that the cumulative exposure, when operational, will not exceed International Commission on non-ionising radiation protection guidelines; or
- for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met

2.2.6 The applicant has indicated that pre-application consultation letters were sent to North Bridge House Senior School, The Academy School, St Anthony's Preparatory School, Hampstead Parochial

Church of England Primary School, Hampstead Community Centre, Super Camps at North Bridge House Senior School and Kidsoosa New End on 27th August 2020. Pre-application consultation letters were sent by email on 27th August 2020 to the Hampstead Town Ward Representatives; Councillors Cooper, Higson and Stark. A pre-application consultation letter was also sent to the Local Member of Parliament; Tulip Siddiq on 27th August 2020. On 27th August pre-application consultation letters were also sent to 64 residential properties along Gayton Road and Spencer Walk. One response was received – requesting further information – which was sent.

2.2.7 The Supplementary Information submitted with the application indicates that the installations would comply with ICNIRP guidelines. However, NPPF (para 118) also notes ‘Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure’.

2.2.8 The provision of telecommunications equipment is therefore acceptable in principle subject to the above provisions. The particular issues in this case are considered below:

### Design and Conservation

2.3.1 Local Plan Policies D1 (Design) and D2 (Heritage) are aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas and listed buildings.

2.3.2 Within the Heritage section of the Council’s Design CPG it is noted that ‘*The Council will only permit development within Conservation Areas that preserves and where possible enhances the character and appearance of the area*’. For non-designated heritage assets such as the application building, ‘*The Council will protect non-designated heritage assets. The effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset*’.

2.3.3 Policy DH1 of the Hampstead Neighbourhood Plan requires development proposals to demonstrate how they respect and enhance the character and local context of the relevant character area. Policy DH2 of the Hampstead Neighbourhood Plan requires planning applications within a Conservation Area to have regard to the guidelines in the relevant Conservation Area Appraisal(s) and Management Strategies.

2.3.4 The siting and design of the proposed installations would not respect the context and character of the area, the townscape merits of the roofscape, the setting of the adjacent Listed buildings or the character and appearance of the Conservation Area. The application building, due to its height and form is particularly prominent in the Conservation Area. It is sandwiched between Listed buildings on Hampstead High Street which has a rich variety of architectural types and styles, the historic roofs and traditional frontages giving charm to the streetscene as one goes up or down the hill.

2.3.5 Due to the height and siting of the proposals, close to the edges of the roof, the telecommunications apparatus would be highly prominent and incongruous in the context of the historic streetscene and the adjacent Listed buildings, diminishing their architectural and historic merits and harming their significance in the Conservation Area. The proposals would therefore be contrary to policies D1 and D2 of the LB Camden Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan.

2.3.6 Extending up to 2.7m above the level of the roof, the installations would detract from the village core character to Hampstead High Street and the residential character of the area as viewed from Gayton Road. The proposals would be visible in the Hampstead Heath High Street streetscene, which is noted as being significant in the Conservation Area, and they would be visible from neighbouring

properties and the public domain to the rear, in Gayton Road. The proposals would detract from the significance of the heritage asset (the Hampstead Conservation Area), the setting and architectural and historic character of the adjacent Listed buildings and the context and character of the area.

2.3.7 The harm that would be caused to the character and appearance of the Conservation Area is assessed as being 'less than substantial'.

2.3.8 The NPPF states in Paragraphs 196 and 197 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. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application.

2.3.9 The Council acknowledges that the proposal would have public benefits in the sense that it would provide improved 2G, 3G, 4G and 5G network coverage for Telefonica in the area. It would enable enhanced connectivity for residents, students, businesses and services. Nevertheless, weighing the less than substantial harm caused as a result of the proposed development against this demonstrable public benefit, it is considered on balance that the benefit to the public arising from enhancing the local telecommunication coverage and increased capacity would not outweigh the harm arising to the character and appearance of the host property, local views from the street and neighbouring properties and Hampstead Conservation and Neighbourhood Areas.

2.3.10 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area and preserving the setting of the adjacent Listed buildings under s.72 and s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

### 2.3 Amenity of neighbouring residential occupants

2.3.1 Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. This includes privacy, overlooking, outlook and implications on daylight and sunlight. CPG - Amenity provides specific guidance with regards to privacy, overlooking and outlook.

2.3.2 Privacy/overlooking: The installations themselves would not result in any losses of privacy or overlooking because they are innate objects. However, objections have been raised on the grounds that a loss of privacy/overlooking would result when the installations are being maintained – because people would be able to look through the existing roof light of the fifth floor flat on the roof and also gain access via the residential staircase. This would not ordinarily occur however and it could be controlled by the owner/occupiers. A loss of privacy/overlooking could therefore be controlled by other means and it would therefore not be reasonable to refuse planning permission on this ground.

2.3.4 Outlook: Notwithstanding the issues raised and discussed in 'Design & Conservation' above, the proposed installations would not obscure or be unduly overbearing upon any neighbouring rooms or private gardens or amenity spaces.

2.3.5 Daylight/sunlight: The proposed installations would not result in any undue overshadowing or loss of light from any neighbouring rooms or private gardens or amenity spaces.

2.3.6 Use of roof terrace: Several of the letters of objection (and the Hampstead Neighbourhood Forum letter) which have been received refer to planning permission 2020/1774/P for the 'Creation of new roof terrace, installation of a roof light and replacement of the existing railings with glazed balustrades' (granted 29/01/2021). The letters mention that the current proposal would be harmful to and impede the development granted under planning permission 2020/1774/P. But this planning permission has not yet been implemented. The current proposal would therefore not impact upon any

roof terrace (granted planning permission under 2020/1774/P or otherwise). In answer to the point that the proposal would effectively scupper planning permission 2020/1774/P it is for the applicant(s) to decide which planning permission to implement and it is essentially a private matter for the owners/occupiers to resolve. The existence of a planning permission for one form of development cannot prevent other applications for other forms of development from coming forward and from being considered in accordance with the relevant considerations.

## 2.4 Other matters

2.4.1 In addition to the issues relating to 'The Principle of Development', 'Design & Conservation' and 'Effects on the amenity of neighbouring occupiers' discussed above, the 'other matters' raised in the letters of objection can be dealt with as follows:

- Health risks and compliance with ICNIRP guidelines:

See 'The Principle of Development' above. The Supplementary Information submitted with the application indicates that the installations would comply with ICNIRP guidelines. Beyond this, the NPPF advises that the health risks from telecommunications installations are not a planning consideration.

- Inaccuracy of site address/site description:

The site address has been correctly stated on the application covering letter and the application drawings clearly identify the site. The site is incorrectly described as being commercial in the Supporting Statement. However, the letters of objection which have been received clearly confirm that the building is in residential use on its 1st – 4th floors and this is corroborated by the Planning History above.

- Alternative, less harmful technologies exist; lack of benefit

The benefits of the proposed telecommunications installations are mentioned in 'The Principle of Development' above. Planning applications must be considered on their own merits. It is not for Local Planning Authorities to refuse to consider proposals. Each proposal must be considered on its own merits in relation to all relevant planning and other material considerations.

- Breach of Equality Duty

The Council has considered the interests of all relevant parties equally.

- Breach of Human Rights

No person or persons human rights have been affected in the processing of the application.

- Future pruning/removal of trees within range

Any works to nearby trees in association with the proposed development would require consent from the Council's Tree Officer. Any application for consent would be assessed in accordance with the impacts on amenity and biodiversity.

- Structural impact on building

Structural impacts arising from development are not a planning matter. Any structural issues should be dealt with under the Building Regulations and/or civil law.

## 3.0 **Recommendation**

### 3.1 Refuse planning permission

*The proposed telecommunication antennas, cabinets and ancillary works at roof level, by reason of their location, number, height, design and appearance, would not respect the context and character of the area, the townscape merits of the roofscape, the setting of the adjacent Listed buildings or the character and appearance of the Conservation Area. The proposals would therefore be contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017, and policies DH1 (Design) and DH2 (Conservation Areas & Listed Buildings) of the Hampstead Neighbourhood Plan 2018.*



