

## The Planning Inspectorate

### PLANNING APPEAL FORM (Online Version)

**WARNING:** The appeal **and** essential supporting documents **must** reach the Inspectorate within the appeal period. **If your appeal and essential supporting documents are not received in time, we will not accept the appeal.**

**Appeal Reference: APP/W9500/W/23/3330759**

#### A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name

N/A N/A N/A

Company/Group Name

Cornerstone

Address

Hive 2  
1530 Arlington Business Park  
Theale  
Berkshire  
RG7 4SA

Preferred contact method

Email



Post



#### B. AGENT DETAILS

Do you have an Agent acting on your behalf?

Yes



No



Name

Mr Mark Flaherty

Company/Group Name

Elmfield Planning

Address

Unit 2, Apollo Business Centre  
Aspley Grove  
Manchester  
M12 6AW

Phone number

Email

Preferred contact method

Email



Post



#### C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

North York Moors National Park Authority

LPA reference number

NYM/2023/0107

Date of the application

15/03/2023

Did the LPA validate and register your application?

Yes  No

Did the LPA issue a decision?

Yes  No

Date of LPA's decision

05/04/2023

#### D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes  No

Does the appeal relate to an existing property?

Yes  No

Address

Gateway Centre Garages  
Whitegate Close  
Staithes  
North Yorksire  
TS13 5BB  
Grid Ref Easting: 478141  
Grid Ref Northing: 518497

Is the appeal site within a Green Belt?

Yes  No

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes  No

#### E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form?

Yes  No

Please enter details of the proposed development. This should normally be taken from the planning application form.

installation of a 17.5m metre high slim-line monopole supporting 6no. antennas, 2 no. equipment cabinets, 1 meter cabinet, and ancillary development thereto, including 3 no. Remote Radio Units (RRU's).

Area (in hectares) of the whole appeal site [e.g. 1234.56]

0.1 hectare(s)

Area of floor space of proposed development (in square metres)

0 sq metre(s)

Does the proposal include demolition of non-listed buildings within a conservation area?

Yes  No

#### F. REASON FOR THE APPEAL

**The reason for the appeal is that the LPA has:**

1. Refused planning permission for the development.
2. Refused permission to vary or remove a condition(s).
3. Refused prior approval of permitted development rights.
4. Granted planning permission for the development subject to conditions to which you object.
5. Refused approval of the matters reserved under an outline planning permission.

6. Granted approval of the matters reserved under an outline planning permission subject to conditions to which you object.
7. Refused to approve any matter required by a condition on a previous planning permission (other than those specified above).
8. Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval.
9. Failed to give notice of its decision within the appropriate period because of a dispute over provision of local list documentation.

## G. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

### 1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes  No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes  No

### 2. Hearing

### 3. Inquiry

## H. FULL STATEMENT OF CASE

[see 'Appeal Documents' section](#)

Do you have a separate list of appendices to accompany your full statement of case? Yes  No

[see 'Appeal Documents' section](#)

(a) Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? (Please attach draft version if available) Yes  No

(b) Have you made a costs application with this appeal? Yes  No

## I. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

CERTIFICATE A

**I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates;**

CERTIFICATE B

**I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below:**

**Owner's Name:** Scarborough Borough Council  
**Address at which notice was served:** Town Hall, St Nicholas Street, Scarborough, YO11 2HG  
**Date the notice was served:** 04/10/2023

**Owner's Name:** Telefónica UK Ltd  
**Address at which notice was served:** 260 Bath Road, Slough, Berkshire, SL1 4DX  
**Date the notice was served:** 04/10/2023

CERTIFICATE C and D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below.

## I. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

- (a) None of the land to which the appeal relates is, or is part of, an agricultural holding.
- (b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant.
- (b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below.

## J. SUPPORTING DOCUMENTS

01. A copy of the original application form sent to the LPA.
02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (if these did not form part of the LPA's planning application form).
03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
05. (a) Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
05. (b) A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.
- 05.(c) A list of all plans, drawings and documents upon which the LPA made their decision.
06. (a) Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application.
06. (b) A list of all plans, drawings and documents (stating drawing numbers) which did not form part of the original application.
07. A copy of the design and access statement sent to the LPA (if required).
08. A copy of a draft statement of common ground if you have indicated the appeal should follow the hearing or inquiry procedure.
09. (a) Additional plans, drawings or documents relating to the application but not previously seen by the LPA. Acceptance of these will be at the Inspector's discretion.
09. (b) A list of all plans and drawings (stating drawing numbers) submitted but not previously seen by the LPA.
10. Any relevant correspondence with the LPA. Including any supporting information submitted with your application in accordance with the list of local requirements.
11. If the appeal is against the LPA's refusal or failure to approve the matters reserved under an outline permission, please enclose:

- (a) the relevant outline application;
  - (b) all plans sent at outline application stage;
  - (c) the original outline planning permission.
12. If the appeal is against the LPA's refusal or failure to decide an application which relates to a condition, we must have a copy of the original permission with the condition attached.
13. A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA).
14. If the appeal is against the LPA's refusal or failure to decide an application because of a dispute over local list documentation, a copy of the letter sent to the LPA which explained why the document was not necessary and asked the LPA to waive the requirement that it be provided with the application.

## K. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes  No

## L. CHECK SIGN AND DATE

**(All supporting documents must be received by us within the time limit)**

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full statement of case) to the LPA today.

**Signature**

**Date**

**Name**

**On behalf of**

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

## M. NOW SEND

### Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full statement of case) not previously sent as part of the application to the LPA. If you do not send them a copy of this form and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:

<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>

- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

**You may wish to keep a copy of the completed form for your records.**

## N. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. Please ensure that any correspondence you send to us is clearly marked with the appeal reference number.

**You will not be sent any further reminders.**

### The documents listed below were uploaded with this form:

<b>Relates to Section:</b>	FULL STATEMENT OF CASE
<b>Document Description:</b>	A copy of the full statement of case.
<b>File name:</b>	CTIL 20571520 _Statement of Case_final.pdf
<b>Relates to Section:</b>	FULL STATEMENT OF CASE
<b>Document Description:</b>	A separate list of appendices to accompany your full statement of case
<b>File name:</b>	APPENDIX 1__Appeal 3256772 and 3256773.pdf
<b>File name:</b>	APPENDIX 1__Appeal 2172974.pdf
<b>File name:</b>	APPENDIX 1__Appeal 3159250-decision.pdf
<b>File name:</b>	APPENDIX 1__Appeal 3244837 and 3254104.pdf
<b>File name:</b>	APPENDIX 2_205715 - Montage Pack V2.pdf
<b>File name:</b>	APPENDIX 3_CSR 75453 - Planning Plots.pdf
<b>File name:</b>	APPENDIX 4_2022-06-17 Public - Plans.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	01. A copy of the original application sent to the LPA.
<b>File name:</b>	ApplicationForm.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (these are usually part of the LPA's planning application form).
<b>File name:</b>	205715 GPDO Planning Developers Notice (England) V.5.pdf
<b>File name:</b>	205715 Developers Notice Covering Letter SP.pdf
<b>File name:</b>	205715 Developers Notice Covering Letter TEF.pdf
<b>File name:</b>	205715 - POD SP notice.JPG
<b>File name:</b>	205715 - POD TEF notice.JPG
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
<b>File name:</b>	E_CS_205715_20_VM02_75453_DN.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
<b>File name:</b>	CTIL 205715_20 - Plans Rev D.pdf
<b>Relates to Section:</b>	SUPPORTING DOCUMENTS
<b>Document Description:</b>	05.a. Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.

**File name:** Sir Robert Goodwill MP Preapp Letter.pdf  
**File name:** Cornerstone Health and Mobile Phone Base Stations Document V.4.pdf  
**File name:** 205715 - POD SP notice.JPG  
**File name:** DCMS MHCLG Collaborating for Digital Connectivity Letter.pdf  
**File name:** 205715 ICNIRP Declaration with Clarification Letter V.4.pdf  
**File name:** 205715 GPDO Planning Developers Notice (England) V.5.pdf  
**File name:** 205715 Developers Notice Covering Letter SP.pdf  
**File name:** Matt Warman MP letter on 5G broadband\_RFCWG19-19.pdf  
**File name:** Hinderwell Parish Council Preapp Letter.pdf  
**File name:** Cllr Watson Preapp Letter.pdf  
**File name:** Cllr Chance Preapp Letter.pdf  
**File name:** Cllr Pearson Preapp Letter.pdf  
**File name:** Health summary v19.pdf  
**File name:** Digital Public Benefit Brochure updated.pdf  
**File name:** Matt Warman MP Letter to LPA Chiefs 2021.pdf  
**File name:** 205715 GPDO Application Letter (Eng) V.6.pdf  
**File name:** HM Government Ofcom 5G Guide.pdf  
**File name:** allaying health concerns regarding 5g.pdf  
**File name:** AttachmentSummary.pdf  
**File name:** 5G Services v9.pdf  
**File name:** 205715 - POD TEF notice.JPG  
**File name:** 205715 Developers Notice Covering Letter TEF.pdf  
**File name:** CTIL 205715\_20 - Plans Rev D.pdf  
**File name:** Cornerstone - Local Authority Engagement Brochure - Sept 2020 (002).pdf  
**File name:** MobileUK Health Fact Sheet V1.pdf  
**File name:** Planning for a better network v6.pdf  
**File name:** MobileUK 5G Local Authority Toolkit.pdf  
**File name:** FP England General Backgrd Info for Telecoms Dev.pdf  
**File name:** Cornerstone Radio Planning and Propagation V6.pdf  
**File name:** 205715 SSSI v5 (002).pdf  
**File name:** ApplicationForm.pdf

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 05.b. A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.

**File name:** list of app docs submitted.png

**Relates to Section:** SUPPORTING DOCUMENTS  
**Document Description:** 09.a. Copies of additional plans, drawings or documents relating to the application not previously seen by the LPA. Acceptance of these will be at the Inspector's discretion.

**File name:** APPENDIX 2\_205715 - Montage Pack V2.pdf

**Completed by** MR MARK FLAHERTY

**Date** 04/10/2023 21:51:25





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

**Appeal Statement for Cornerstone**

A planning appeal by written representation against the decision of North York Moors National Park Authority to refuse prior approval for installation of a 17.5m metre high slim-line monopole supporting 6no. antennas, 2 no. equipment cabinets, 1 meter cabinet, and ancillary development thereto, including 3 no. Remote Radio Units (RRU's) at Gateway Centre Garages, Whitegate Close, Staithes, North Yorkshire, TS13 5BB

Appellant reference:

CTIL 20571520

LPA application reference:

NYM/2023/0107

Prepared by:

Clarke Telecom  
Unit E  
Madison Place  
Northampton Road  
Manchester  
M40 5AG

Date: October 2023

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Appendix 1	Appeal decisions referenced:  APP/C3430/A/12/2172974 APP/X5210/W/20/3254104 APP/E5330/W/16/3159250 APP/A1910/C/20/3256772	
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Appendix 4	Plans for 20m mast at Appeal Site (refused under ref. NYM/2022/0453)	

## Section 1 Introduction

1. This statement has been prepared by Clarke Telecom Limited (hereinafter referred to as “the Agent”), acting for Cornerstone (hereinafter referred to as “the Appellant”), against the refusal of prior approval by North York Moors National Park Authority (hereinafter referred to as “the Local Authority”) for the installation of electronic communications apparatus (herein after referred to as “the Appeal Proposal”) at Gateway Centre Garages, Whitegate Close, Staithes, North Yorkshire, TS13 5BB (hereinafter referred to as “the Appeal Site”).
2. Cornerstone is the leading UK mobile digital infrastructure company. It has an estate of over 20,000 sites, hosting the radio equipment of telecoms operators and providing mobile connectivity to tens of millions of end users. In the case of the Appeal Proposal, Cornerstone would provide the infrastructure to host the radio equipment of licensed Mobile Network Operator (MNO) Telefonica UK Limited, trading as Virgin Media O2 (hereinafter referred to as “the Operator”).
3. The Operator leases part of its licenced phone and data spectrum to third-party companies, known as Mobile Virtual Network Operators (MVNO). These companies then provide mobile connectivity to their customers under their own agreements. These companies include Virgin Mobile, GiffGaff, Sky Mobile and Tesco Mobile – the customers of all these companies would also receive significantly improved connectivity from this proposal. The public need for the proposal therefore relates to a significant number of individuals and businesses.
4. Ofcom announced the outcome of its 4G spectrum licence auction in 2013 and the Operator was successful in their bid for a 4G licence. Since then, through its appointed partners and agents, Cornerstone has been upgrading the Operator’s 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.
5. More recently, the Operator successfully bid for a 5G licence and has 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.
6. The subject of the appeal is a proposal to improve the Operator’s mobile communication services in the village of Staithes and its surroundings, by introducing 4G and 5G services, and enhanced 2G and 3G. This would be achieved by the installation of electronic communications apparatus at the Appeal Site, establishing a new electronic communications base-station within the Operator’s established cellular network. The proposed infrastructure would facilitate improved digital connectivity to the local area, where there is clear need for it.
7. On 15<sup>th</sup> March 2023, an application seeking prior approval for the siting and appearance of “installation of a 17.5m metre high slim-line monopole supporting 6no. antennas, 2 no. equipment cabinets 1 meter cabinet, and ancillary development thereto, including 3 no. Remote Radio Units (RRU’s)” was submitted to the Local Authority. The application was determined via delegated powers and a decision notice dated 5th April 2023 advised that approval had been refused.
8. The decision notice states the following reason for refusal:

*“The proposed single 17.5m mast, would, by reason of its height towering above nearby buildings and trees, constitute a dominating and unduly obtrusive feature in the wider townscape and have an adverse impact on the landscape and character of this part of the National Park contrary to Strategic Policy A and Policy BL10 of the Authority’s Adopted*

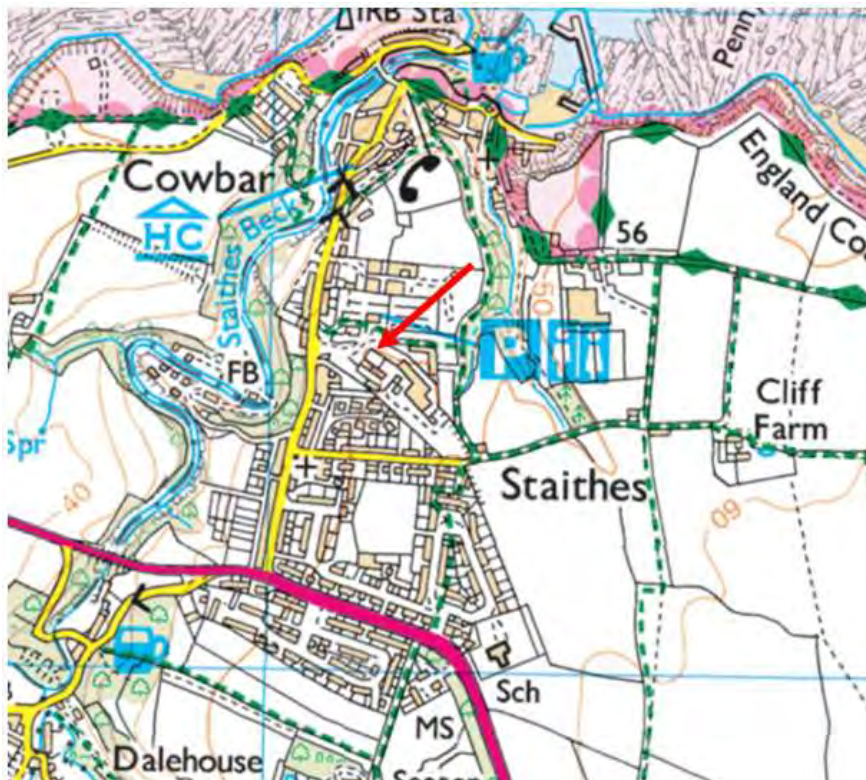
*Policies as set out in the Local Plan, which seek to conserve and enhance the landscape and ensure that the development does not have an unacceptable [sic] adverse visual impact upon the character of the locality and the wider landscape”.*

9. This statement provides background information on the development of mobile cellular networks and the need for the proposed base-station. Policy is appraised and the reasons for refusal are examined. It will be sought to demonstrate that the Appeal Proposal would result in limited impact and that a comprehensive site search has demonstrated that the Appeal Site is the most suitable site available. The limited impact identified would be outweighed by the significant public benefits arising from the digital infrastructure proposed, as supported by local and national planning policy, as well as other relevant documents.
10. The URL links provided in the document references in the footnotes can be followed at the readers discretion, should the reader wish to read additional background information on the matter referred to. They are not an essential part of the appeal case and can be ignored if wished.

## Section 2 The Appeal Site & Proposal

### 2.1 The Appeal Site and surroundings

11. The Appeal Site is located at the side of the public highway of Staithes Lane, set amongst a row of garage buildings and next to a lamppost/flood light pole. Surrounding land uses in the immediate setting of the site include Bank Top public carpark, playground and café establishment, situated to the north. There are trees to the south, beyond which are the rear gardens to a short row of dwellings on Whitegate Close. There is a cluster of industrial units at the end of the no-through road to the east. There are several steel lighting columns in the vicinity of the site associated with the neighbouring public carpark, as well as multiple telegraph-poles.
12. The Appeal Site is located in the large coastal village of Staithes, North York Moors National Park. Staithes is an enclave where land uses mainly comprise of dwellings and tourist related businesses, including accommodation, shops, restaurants and other facilities. Beyond the settlement boundary, land use is mainly agricultural fields which have a network of public right of way paths passing through them – used by people for recreation. Staithes Harbour, which provides facilities for vessels, along with the RNLI Staithes & Runswick Lifeboat Station, is located to the north of the site. A section of the England Coast Path, a national trail opened in 2020, passes through Staithes along the coast to the north of the site. Staithes is served by the A174 highway, located to the south of the site.
13. It is this high concentration of mobile users, in the form of residents, businesses and tourists, which is driving the need to fill a large coverage-gap and improve mobile connectivity for the village, including by providing the latest 5G services and higher network capacity. Reliable mobile connectivity is essential for the area, and the Appeal Proposal would help to redress the present deficiency in service.



Appeal Site location denoted on OS Map. Image source: Ordnance Survey



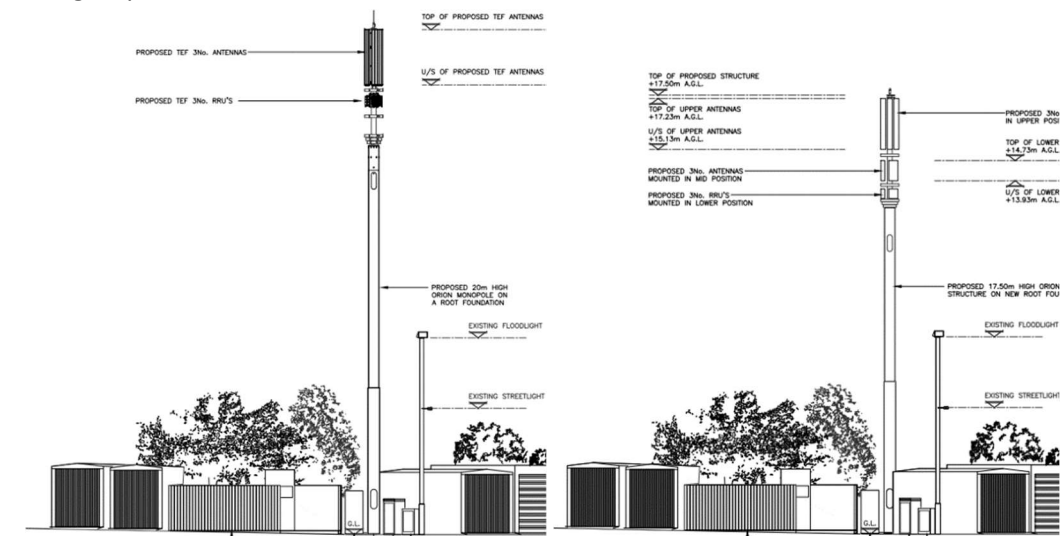
Aerial images showing Appeal Site and surrounding context. Source of images: Google



*Photographs of Appeal Site, site denoted approximately by arrow*

**2.2 Description of the Proposal**

14. It is proposed to install “street-work” style infrastructure onto the highway. The proposal is required in order to facilitate advanced and high-capacity digital connectivity to the surrounding area – providing improved 2G, 3G and 4G services, as well as new 5G services. The proposed 17.5m high column structure is the mast which has been designed as a support structure for electronic communications equipment, elevating radio antennas that would be secured to the upper-section of the mast. The mast would be coloured RAL 7035 Light Grey. The antennas are rectangular-shaped panel-like pieces of apparatus which emit radio waves, providing digital connectivity to mobile device users in the surrounding area. A total of 6No. antennas are secured externally to the mast. The antennas must be left exposed in order to operate effectively; this is owing to the particular radio frequencies that the Operator’s 5G band operates at, which is particularly sensitive to interference from solid obstructions. The frequency bands are allocated to the Operators by Ofcom and cannot be changed.
  
15. The antennas would connect to 2No. ground-based equipment housing cabinets via cable feeders housed inside the mast. The equipment cabinets, coloured RAL 7035 ‘Light Grey’, are modest in scale and would be discreetly located at the side of a garage. The proposed electricity meter cabinet is very small in scale and should be of no concern. The 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, hence their location at the base of the mast. The planning decision does not raise concern about the cabinets.
  
16. The scale and amount of equipment has kept to the absolute minimum to meet technical requirements. The original and preferred design is a 20m high mast because this would enable the improved radio coverage to reach a wider area. This was the design that was the subject of a prior planning refusal at the Appeal Site (ref. NYM/2022/0453). With the aim of addressing the reasons for refusal and striking a better balance between radio performance and protection of visual amenity, the mast height was reduced by 2.5m; however, the follow-up application was also refused prior approval for the same reasons (the Appeal Proposal). The mast is the minimum height required in order to meet safety guidelines (set by the international commission – ICNIRP). Since the scale and design of the equipment cannot be reduced or altered in anyway which would reduce visual impact any further, without rendering the base-station operationally ineffective, and owing to the confidence that all alternative sites options have been exhausted, there was no other option to submitting this appeal to the Planning Inspectorate.



*Elevation of refused 20m high mast (left) Vs. Elevation of Appeal Proposal (right)*



### 2.3 Permitted Development

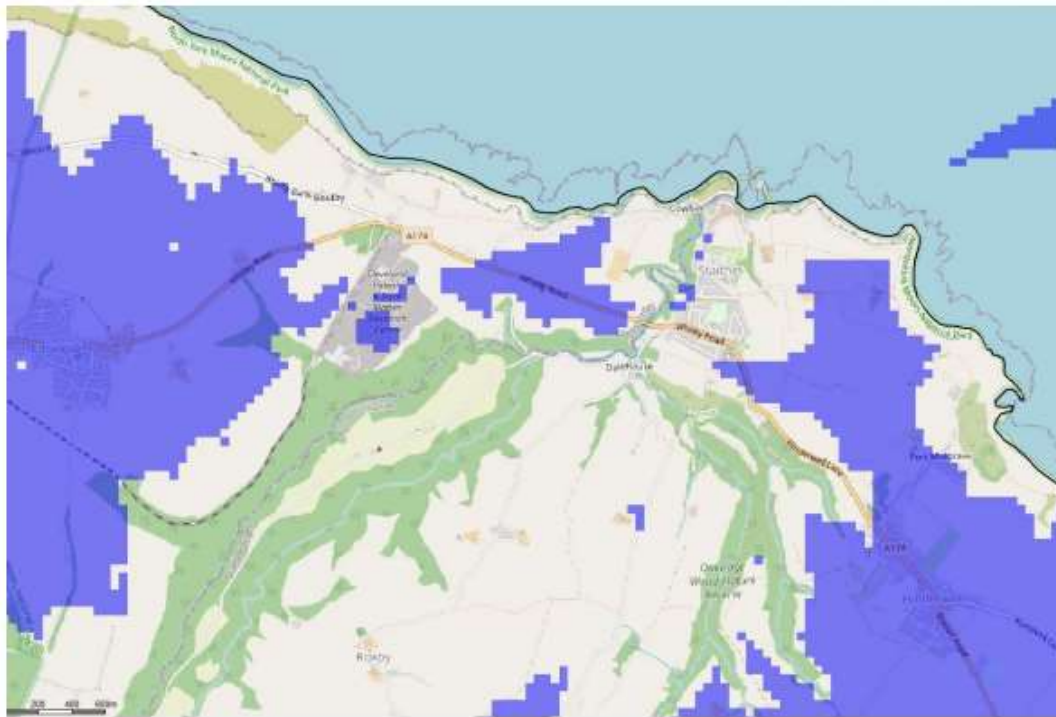
17. The Appeal Proposal is permitted development under Part 16 of Schedule 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Specifically, development by an electronic communications code operator consisting of installation of electronic communications apparatus including a ground-based mast. The developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required, as to the siting and appearance of the development prior to beginning the development, as set out in Class A.3 (3) of Schedule 2 of Part 16 of the GPDO 2015 (as amended).
18. Because the cumulative volume of the proposed equipment cabinets would not exceed 90m<sup>3</sup>, as per section 9 of Part 16, they are permitted development and did not require an application for Prior Approval (Class A.1, section 8). Additionally, Class A.2 sets out the conditions of the permitted development and permits radio equipment housing if the volume of each single development does not exceed 2.5m<sup>3</sup>. In this case the equipment cabinets are both less than 2.5m<sup>3</sup> and thus permitted development. Regardless, they were shown on the proposed plans for completeness and therefore formed part of the application for approval, and they now form part of the Appeal Proposal. The proposed mast is 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. The Local Authority has not refuted this principle and determination process.
19. 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.”*  
(Ref. APP/C3430/A/12/2172974) (emphasis added)
20. The importance of differentiating Prior Approval from a planning application is re-enforced further in Planning Practice Guidance:
- “Is a prior approval application like a planning application?”*
- The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as **prior approval is a light-touch process which applies where the principle of the development has already been established.** Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is **important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.**” (PPG, Paragraph: 028 Reference ID: 13-028-20140306)*
21. The permitted development status of the Appeal Proposal – “equivalent to outline planning permission” – and the limited scope of matters which require prior approval, relative to a full planning application, is an important principle. The permitted status is testament to Government support for this type of essential infrastructure.

### Section 3 The Need & Public Benefits of the Proposal

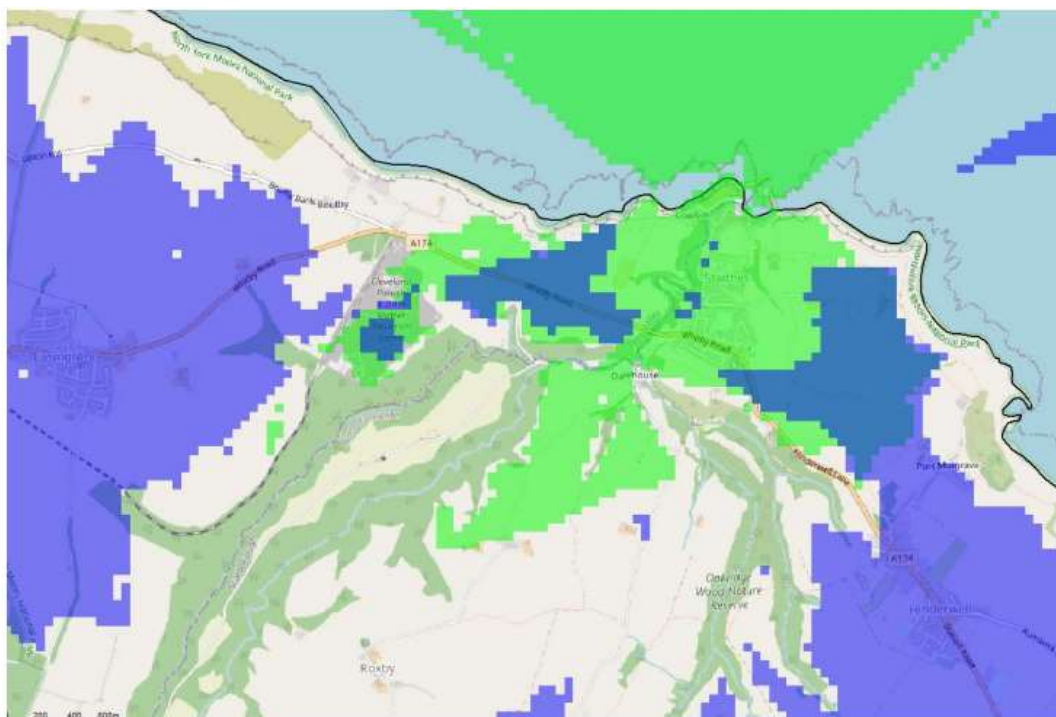
#### 3.1 The Need

##### Coverage & Signal Strength

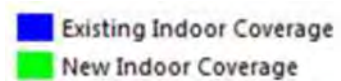
22. The Operator is proposing to establish a new mobile base-station within their cellular network, enabling improvements in the provision of third and fourth generation services (3G & 4G), and to provide the most advanced fifth generation services (5G), to area surrounding the Appeal Site.
23. Base 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. 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. At present, Staithes and its surroundings is a coverage “not-spot” on the Operator’s network, and by default a not-spot for the MVNOs Virgin Mobile, GiffGaff, Sky Mobile and Tesco Mobile. The Appeal Proposal would improve the signal strength that Operator’s customers receive when using their mobile devices – providing faster and more reliable digital connections. This includes providing the most advanced services available through 5G connectivity. The proposal would make a notable contribution to roll-out of this latest and most advanced mobile service.
25. 5G connectivity provides a hyper-fast, low latency connection with speeds being around 100 times faster than 4G. With a fraction of the latency of 4G, 5G has fewer delays. Customers can stream 4K videos and join a video call without interference. Additionally, there are a host of medical, educational, transport and manufacturing applications which will use the 5G network.
26. The enclosed coverage plots (see Appendices and extracts below) clearly show that Staithes and its surroundings are in a large ‘coverage-gap’, meaning that people on the Operator’s network, and the MVNOs which utilise the VMO2 network, are not receiving reliable phone reception when inside a building including when inside their homes. In the modern technological age when people are reliant on connectivity, the present situation is well below adequate.
27. The coverage plots also show that the Appeal Proposal would fill this coverage gap, as well as providing additional network capacity to benefit local users. The area to benefit includes the entire settlement of Staithes and its harbour (including the RNLI station), as well as some of the surrounding agricultural fields and their public right of way paths, and parts of the nearby A174 highway. Introducing reliable mobile connectivity to the RNLI station and harbours has benefits with respect to the need to communicate during emergencies.
28. There is presently an absence of 5G coverage from the Operator Virgin Media O2, and the MVNO’s, to the local area and this proposal would facilitate its introduction. In rolling out 5G, the operators use the 4G coverage footprint as a guide as to where 5G is also needed.



Existing indoor 4G coverage



Proposed indoor 4G coverage



### Network Capacity

29. While some basic mobile “coverage” may presently be available from the Operator, 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 mobile networks, particularly where there is a high-concentration of mobile users, such as in tourists spots like Staithes.
30. The subject area has a concentration of mobile users in the form of residents and tourist businesses operating in the village, such as those providing tourist accommodation, as well as agricultural businesses in the surrounding area. This is in addition to the high transient population made-up of visitors and tourists, as well as delivery drivers and commuters using the A-road, in particular. This concentration of users places a high demand on the network for calls, texts, data and other services. Individuals now require reliable connectivity where ever they are and whatever they are doing, whether it be for work, rest or play.
31. In April 2020, the UK Government advised that telecommunications were one of the “critical sectors” in new government regulations and legislation, brought-in to deal with the COVID-19 outbreak. The guidance<sup>1</sup> established the critical nature of telecommunications infrastructure of the type that forms the Appeal Proposal. Whilst this guidance has now been superseded, the premise of Government emphasis on the importance of mobile connectivity remains (emphasis added):
- “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.”*
32. 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. Vodafone – another mobile network operator – published data that showed they experienced about a 30% increase in internet traffic over their fixed and mobile networks, and mobile voice traffic has increased by 42%.<sup>2</sup> Telefonica would have experienced similar levels of demand.
33. The pandemic has also caused permanent 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 is in part due to the unprecedented number of people now working from home on a regular basis, even now that restrictions have been withdrawn. This has caused even greater urgency to increase the capacity and capability of mobile networks in the UK, particularly in residential areas such as that surrounding the Appeal Site, highlighting the critical nature of such infrastructure. The need for increased network

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<sup>1</sup> COVID-19 guidance for telecommunications infrastructure deployment in England:  
<https://www.gov.uk/guidance/covid-19-guidance-for-telecommunications-infrastructure-deployment-in-england>

<sup>2</sup> 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/>

capacity existed prior to the pandemic and has now been intensified. Post-pandemic, reports are that many people now have a home-working/office-based hybrid working practice, ensuring network demand continues to be high in the area's where people live.

34. In summary, the Appeal Proposal is urgently needed so that it can meet an unprecedented demand for additional network capacity. People's reliance on mobile connectivity, either when home working or when on the move, means that they also require the highest signal strength currently available on the network. These dual aims of the proposal will both improve the reliability of services received by users. Additionally, there is need for the network to provide 4G and 5G connectivity to the area and to prevent an installation that proposes to introduce the service would be contrary to NPPF (para. 118). The significant opportunities that this game-changing technology provides are discussed in the proceeding section. Without the infrastructure proposed in this appeal, the services and benefits will simply not be available to customers of the Operator and to the customers of the associated VMNO's (Virgin mobile, GiffGaff, Tesco Mobile, Sky Mobile) in this area.

### **3.2 Public Benefits of the Proposal**

35. Whilst this an appeal against the refusal of prior approval for the siting and appearance of the development only, the permitted development status of the proposal means that its socio-economic and environment public benefits have been recognised by the grant of permission under Article 3 (1). The following content sets out these benefits.
36. 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.
37. In addition to improving voice, text services and the internet connection that improved 3G coverage will provide to the area, improved 4G connectivity will allow users to benefit from high-speed internet connections on their mobile devices, allowing fast downloads, video and face to face streaming and the ability to send emails on the go. It is worth noting that while the other Mobile Network Operators have announced a date for ceasing the provision of 3G services, the Operator has not made any such announcement and therefore it must be assumed that the service is still required as part of their network offering.
38. This critical infrastructure would also introduce new 5G technology which has ultra-fast mobile connectivity and supports the 'Internet of Things' – physical objects embedded with sensors that communicate with computing systems via wireless networks, allowing the physical world to be digitally monitored or controlled. 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 and devices at the same time.
39. In April 2023, the UK Government published the 'UK Wireless Infrastructure Strategy'<sup>3</sup>, a plan for delivering world-class digital infrastructure which the government identifies as an essential enabler for its 5 priorities of building a better, more secure, more prosperous future for the UK, including growing the economy, and creating better-paid jobs and opportunity right across the country. In her foreword, the Rt Hon Michelle Donelan MP, Secretary of State for Department for Science, Innovation and Technology, provides context for the strategy:

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<sup>3</sup> UK Infrastructure Strategy - <https://www.gov.uk/government/publications/uk-wireless-infrastructure-strategy/uk-wireless-infrastructure-strategy>

*“5G will be the cornerstone of our digital economy. With higher capacity and lower latency, standalone **5G will drive growth** in the industries of today and tomorrow, including in emerging sectors like artificial intelligence where Britain leads the world. Just take smart ports, where 5G-enabled remote operation can help us to move containers more quickly, efficiently, and safely, boosting our international competitiveness. **5G can improve our public services**, too, in everything from education to social care. In transport, for example, we can use 5G to power forward progress in everything from real time travel information to augmented reality navigation and self-driving buses and taxis.... This is an incredible opportunity; widespread adoption of **5G could see £159 billion in productivity** benefits by 2035”*

40. In a similar regard, Ofcom’s ‘Connected Nations 2022 UK report<sup>4</sup>’ explains how quality mobile services continue to play an ever more central role in people’s lives, from on-the-go calls and internet access to wireless connectivity for smart meters and emergency calls:

*“traditional landline services are being retired. Fixed voice services will in future be delivered over broadband connections instead. However, if there is a power cut, voice over broadband connections will not work where back up power is not provided. Some broadband providers are using mobile to provide back up services in such situations. Where this is the case, it is increasingly **important that people have indoor mobile coverage so that they can make emergency calls** in the event of a localised power cut” (Section 3, p38).*

*“While coverage is a prerequisite for connectivity, the **quality of mobile connectivity is becoming increasingly important** as services used by consumers become more demanding, and play an ever more important role in people’s lives.*

*Network quality can differ between different mobile operators and technologies across different areas, due to both supply and demand factors. The supply is largely driven by **network capacity** and is affected by aspects such as the density of cell sites, the amount of spectrum deployed, and the technologies used. Demand is affected by the number of users on the network, the location of those users, and the impact of the applications they use” (Section 3, p39)*

*“As a result of the increased coverage and take up of 5G described above, **5G traffic has grown substantially** over the last year, more than trebling... The increasing share of traffic carried over 5G has the potential to be **more energy efficient** than use of previous technologies, when defined on a bits per Joule basis” (Section 3, p41)*

*“**The Internet of Things (IoT)** refers to a network of devices and sensors which are capable of collecting and sharing data with people or with other devices, and taking action based on this information. IoT and Machine-to-Machine (M2M) networks support a range of uses. These include: connecting smart meters for utilities 127; travel and transport; environmental sensors and energy management solutions for smart buildings; car telemetry; video surveillance; and pipeline monitoring for oil and gas companies” (Section 3, p46)*

*“The increase in IoT devices and traffic this year suggests that businesses are increasingly using the services IoT can deliver. One such benefit can be the capacity for IoT applications to **support businesses in their sustainability goals**. For example, they can enable businesses to reduce the need for travel, reducing their carbon footprint. Smart technology in cities – for example smart lights, smart bins and traffic management systems – can also help to drive the more efficient use of resources and infrastructure” (Section 3, p47)*

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<sup>4</sup> Connected Nations Report 2022 - <https://www.ofcom.org.uk/research-and-data/multi-sector-research/infrastructure-research/connected-nations-2022>

41. Ofcom's annual Communications Market Reports identify trends which demonstrate how people are often dependent on reliable mobile connectivity:

*'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<sup>5</sup>)

*'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<sup>6</sup>)

*'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)

42. The UK Digital Strategy, published by the Department for Digital, Culture, Media & Sport in March 2017<sup>7</sup>, also provides evidence of the public benefits of these 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'* (emphasis added)

43. The Department for Digital, Culture, Media & Sport published its findings of the Government's Future Telecoms Infrastructure Review in July 2018<sup>8</sup>. 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***

<sup>5</sup> Ofcom's Communications Market Report 2016:

[https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0024/26826/cmr\\_uk\\_2016.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0024/26826/cmr_uk_2016.pdf)

<sup>6</sup> Ofcom's Communications Market Report 2016: <https://www.ofcom.org.uk/research-and-data/multi-sector-research/cmr/cmr-2018/interactive>

<sup>7</sup> UK Digital Strategy: <https://www.gov.uk/government/publications/uk-digital-strategy>

<sup>8</sup> Future Telecoms Infrastructure Review: <https://www.gov.uk/government/publications/future-telecoms-infrastructure-review>

*new services for industry sectors, including manufacturing, transport, immersive technologies and healthcare.’ (p 10) (emphasis added)*

44. 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 car journeys and their associated greenhouse gas emissions.
45. The value that 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 **vitaly 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.’<sup>9</sup> (emphasis added)*

46. 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’<sup>10</sup>*. The content of the Government’s response to the consultation, published July 2020<sup>11</sup>, 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 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)*

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<sup>9</sup> Ministerial foreword in ‘A New Electronic Communications Code’, Department for Culture Media & Sport (May 2016)

<sup>10</sup> 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](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)

<sup>11</sup> 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>



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

48. In April 2021, the Government launched a consultation entitled '*Changes to permitted development rights for electronic communications infrastructure: technical consultation*<sup>12</sup>' which looked at how to implement the proposals consulted on in August 2019, demonstrating sustained commitment from Government to enable 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)*

49. 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**"*

50. The amendments to Part 16 of General Permitted Development Order (England), that were consulted on, came into force in April 2022, increasing the permitted development rights for installation of communications apparatus and demonstrating the importance that the Government attributes to delivering improved communications infrastructure. As clarified in the explanatory notes – predicated on relaxing the DPR for telco to facilitate rollout and delivery of 5G etc

51. Elsewhere, Matt Warman (the then Digital Infrastructure Minister) gave the keynote speech at the Connected Britain 2020 conference<sup>13</sup>. 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*

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<sup>12</sup> 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>

<sup>13</sup> Matt Warman's Keynote Speech at Connected Britain 2020: <https://www.gov.uk/government/speeches/matt-warman-keynote-speech-at-connected-britain-2020>

*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

52. 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)*

*‘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.’<sup>14</sup>*

### 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.’<sup>15</sup> (emphasis added)*

<sup>14</sup> WM5G – connectivity: <https://www.wm5g.org.uk/news/why-great-connectivity-is-now-more-important-than-ever/>

<sup>15</sup> WM5G – Education: <https://www.wm5g.org.uk/news/5g-and-greater-connectivity-will-transform-learning/>

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.'*<sup>16</sup> (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'*<sup>17</sup> (emphasis added)

53. The Centre for Policy Studies 2020 report<sup>18</sup> 'Upwardly Mobile - How the UK can gain the full benefits of the 5G revolution' is also insightful:

*"despite the impact of the Covid-19 pandemic, a potential **£34.1bn of additional economic output could be created if the Government delivers its 5G target** of covering the majority of the population by 2027, and more than £40bn if it is exceeded. The gains are not just at a national level. A more extensive digital infrastructure helps local areas to attract and retain businesses and talent...*

*...It is a huge opportunity. But the key is speed – the faster a network is built, the bigger the regional gains. The telecommunications industry faces challenges on this front. The Covid-19 **pandemic has increased demand on mobile networks but delayed the availability of new spectrum to provide additional capacity...***

*...National planning policy and guidance consistently lag behind technology needs. 'Permitted Development' rights must keep pace with digital rollout to ensure sites are delivered more quickly in the areas that need them and **economic benefits should receive greater emphasis in decision making**' (executive summary)*

<sup>16</sup> WM5G – Manufacturing: <https://www.wm5g.org.uk/news/how-the-industry-is-manufacturing-a-5g-future/>

<sup>17</sup> WM5G – Healthcare: <https://www.wm5g.org.uk/news/why-5g-will-prove-fundamental-to-improving-healthcare/>

<sup>18</sup> Centre for Policy Studies 2020 report<sup>18</sup> 'Upwardly Mobile - How the UK can gain the full benefits of the 5G revolution' <https://cps.org.uk/wp-content/uploads/2021/07/201102153926-UpwardlyMobileFINAL.pdf>

54. The Government's White Paper 'Levelling Up the United Kingdom' published February 2022<sup>19</sup>, shows that advanced digital infrastructure is an essential requirement for tackling inequality. Digital connectivity formed one of the twelve missions of the paper, specifically:

*"By 2030, the UK will have nationwide gigabit-capable broadband and 4G coverage, with 5G coverage for the majority of the population"*

55. The paper sets out the 'case for action', explaining that:

*"The COVID-19 pandemic demonstrated the importance of digital infrastructure right across society, from ensuring business continuity to reducing isolation. Improved digital connectivity has the potential to **drive growth and productivity across the UK and widen job opportunities through remote working...***

*... More broadly, high quality digital infrastructure can **deepen local labour markets through remote working, making it more attractive for both workers and companies to locate regionally.** It also allows for the development of high-value sectoral clusters, which can drive growth and jobs in new areas"*

56. The following is a summary of the practical ways in which 5G connectivity can be applied to improve our everyday lives:

#### Economic benefits

- Creating more productive and cost efficiencies for businesses
- Businesses offering online services can extend their products to a broader audience
- Local areas and businesses can benefit from tourists and visitors as hotels, attractions, and restaurants can be booked online from anywhere in the world
- Business owners and services like doctors can provide a faster and more cost-effective service by offering both online appointments and ordering
- Digital connectivity facilitates economic growth, something which the Government is keen to progress and promote
- 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 will also facilitate learning on the job procedures, thanks to technologies such as Augmented Reality (AR) goggles, which, for example, can give the likes of engineers real-time instructions on how to fix a machine on a production line.

#### Social benefits

- Mobile communications can help people to stay in touch wherever and whenever, which can help improve social wellbeing
- Convenient access to online commerce or businesses
- Contacting emergency services is easier, especially in remote areas
- Giving the ability to manage our personal finances and information 24/7
- Using a mobile wherever you go can provide better personal security

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<sup>19</sup> White Paper 'Levelling Up the United Kingdom'  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1052708/Levelling\\_up\\_the\\_UK\\_white\\_paper.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1052708/Levelling_up_the_UK_white_paper.pdf)

- Having access to social networking sites and applications can keep people entertained with their lifestyles and interests
- Access to real-time transport information or timetables
- Smart meter reads for utilities such as gas or electric
- Contacting local authorities
- Promotion of smarter and productive ways of working. For example, working from home can help minimise commuting which can provide better work and home life balance

#### Sustainability and Environmental benefits

- Facilitating remote access to services, education, and commerce, reducing the need to travel and in turn minimising carbon emissions.
- Better monitoring and control of energy consumption through climate change technology, smart metering and smart energy grids.
- 5G infrastructure requires fewer heat generating electronic components.
- 5G enabling of the Internet of Things (IOT) sensor deployment can manage and alert us to pollution risks, health hazards and flood risk.
- Provision of smart technologies within the agricultural sector will facilitate more efficient and less wasteful practices helping to limit negative impacts.
- 5G networks allow monitoring of traffic flow resulting in less congestion and better air quality. They also make driverless cars possible; a means of transport that offers better fuel efficiency.
- Smart cities and buildings can rely upon 5G networks to enable buildings and infrastructure to use automated energy saving through better and more efficient lighting, heating, cooling and other operations.

#### Health benefits

- Support the delivery of healthcare provision and accessibility by enabling people greater access to online services, NHS appointment reminders, reminders to take medicines, make appointments etc.
- Patients across the country are now becoming accustomed to using remote healthcare services such as NHS 111, virtual GP appointments, and ordering online deliveries of essential medical supplies.
- 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. For instance, trials have shown that connecting ambulance crews to expert resources using 5G allows paramedics to work with doctors and conduct specialist procedures in real time whilst on the road.

#### Education benefits

- Facilitates access to educational establishment databases or booking systems for securing places for the likes of school dinners, field trips, extra-curricular activities, student/teacher reviews, etc.
- Provides access to school/college/university apps for setting and submitting homework/coursework, ensuring news and notifications are delivered efficiently, and for parent/student/teacher interactions.
- The relationship between 5G and education is evolving at a massive rate with educators exploring the relevance of Virtual Reality (VR) technologies for education and training. Crucially, VR can support remote learning, allowing students a presence in the classroom even when working elsewhere.

57. 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. It also has a key role in the 'levelling-up' agenda. The public benefits of the Appeal Proposal are substantial.

## Section 4 Planning Policy

### 4.1 National Planning Policy Framework

58. The National Planning Policy Framework (NPPF) (first published March 2012 and last updated September 2023) 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).
59. It is argued that the planning decision did not award sufficient weight to the fact that the NPPF supports the expansion of electronic communications networks, including next generation mobile technology (5G) which would be delivered under this proposal (paragraph 114, NPPF). The decision was imbalanced and did not fully account for all relevant considerations. Emphasis added to quotes below for purpose of this statement.

#### Achieving Sustainable Development

60. 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'*.
61. 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)

62. 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, thereby contributing to the mitigation of climate change.
63. 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.

64. Paragraph 38 of the NPPF directs decision makers to encourage and approve applications for sustainable development where possible. It further encourages Local planning authorities to work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. It has already been highlighted that the growth of telecommunications networks has a vital role to play in the modern-day economy and can attract businesses to an area. It is known to reduce the need to travel through flexible working practices such as working from home, and from the availability of online services to consumers, all of which contributes towards the sustainability agenda. The Appeal Proposal supports national sustainability objectives, as set out in the NPPF, and this is a material consideration weighing in favour of the proposal.

#### Supporting High Quality Communications

65. The government sets out its national policy objectives for electronic communications in Section 10 'Supporting high quality communications'. Paragraph 114 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.'*

66. The Appeal Proposal is 'essential' infrastructure, delivering next generation mobile technology including 5G, and as such it is national policy that planning decisions should support the Appeal Proposal which is a presumption in favour. Paragraph 114 is unambiguous in its support, meaning that it should have been awarded significant weight in the LPA's planning assessment. There is no evidence that was the case.

*'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' (para. 115)*

67. In reference to paragraph 115 of the NPPF, it is not feasible to camouflage a ground-based mast of the scale that is required in order to provide all of the existing and latest technologies, including 5G. In rural settings, masts are occasionally made to have the appearance of a tree. Such masts require a fenced compound and they are therefore unsuitable and not approved by highway authorities for installation on the highway. The proposed mast has, however, been sympathetically designed by virtue of its slim-line nature and appropriate material finish.

68. Other ground-based mast designs include monopoles and lattice-towers. Both are wider than the proposed mast and both would require a fenced compound. The proposed "street-works" style mast has been designed to be installed onto the highway network and is therefore slimline in nature with no bulky head-frame, and does not require a fenced compound. The mast is of the minimum height possible, consistent with the stacked antennas' radio signal being able to clear surrounding structures such as trees and buildings. This also factors that 5G frequencies are particularly sensitive to interference, therefore requiring higher clearance above surrounding structures, relative to previous generations. The proposed equipment cabinets would be coloured Light Grey to encourage



assimilation with its urban environment. The proposal has been “sympathetically designed” as far as operational constraints allow. It is therefore in accordance with paragraph 115, and indeed in accordance with the other parts of Section 10 ‘Supporting high quality communications’.

69. In summary, the Appeal Proposal has support from and complies with the NPPF. The policy demonstrates that the Government seeks to facilitate Mobile Network Operators in delivering nationally important infrastructure at the local level. The aims of sustainable development and paragraphs 38 are particularly relevant, along with paragraphs 114 and 115 which relate to the national objective to deliver advanced, high quality and reliable communications infrastructure, and where possible, to do this by minimising the number of masts. It’s concluded that the proposal does not conflict with the NPPF and this finding is not challenged in planning decision.

#### 4.2 Local Planning Policy

70. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to Class A of Part 16 of the GPDO because the GPDO does not require regard to be had to the Development Plan. However, Development plan policies may be of material consideration to this appeal, insofar as they relate to siting and appearance. The following appeal decision, issued February 2022, clarifies:

*“Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.*

*Nevertheless, policies S25 and S28 of the Westminster City Plan (2016), policies DES1, DES6 and DES9 of the City of Westminster - Unitary Development Plan (2007), as well as policies 19QA, 38, 39 and 40 of the City of Westminster - City Plan (2021) are material considerations **as they relate to issues of siting and appearance.**”* (paragraphs 3 & 4, appeal case APP/X5990/W/21/3284041)

71. The reasons for refusal in the Decision Notice cite conflict with ‘Strategic Policy A’ and’ Policy BL10’ of the North York Moors Local Plan 2020 as the local policy basis for refusing prior approval. These policies, and other policies relevant to the proposal, are discussed in a later section.

#### 4.3 Other Relevant Guidance

##### The Code of Practice

72. The Code of Practice for Wireless Network Development in England<sup>20</sup> (published March 2022 by the Department for Digital, Culture, Media and Sport) provides guidance to Mobile Network Operators (includes the Operator of the Appeal Site) and wireless infrastructure providers, their agents and contractors, local planning authorities, and all other relevant stakeholders on how to carry out their roles and responsibilities when installing wireless network infrastructure. Emphasis added to quotes for purpose of this statement.

*“The aim of the Code of Practice is to support the government’s objective of delivering high quality wireless infrastructure whilst balancing these needs with environmental considerations...*

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<sup>20</sup>Code of Practice for Wireless Network Development in England:  
<https://www.gov.uk/government/publications/code-of-practice-for-wireless-network-development-in-england/code-of-practice-for-wireless-network-development-in-england>

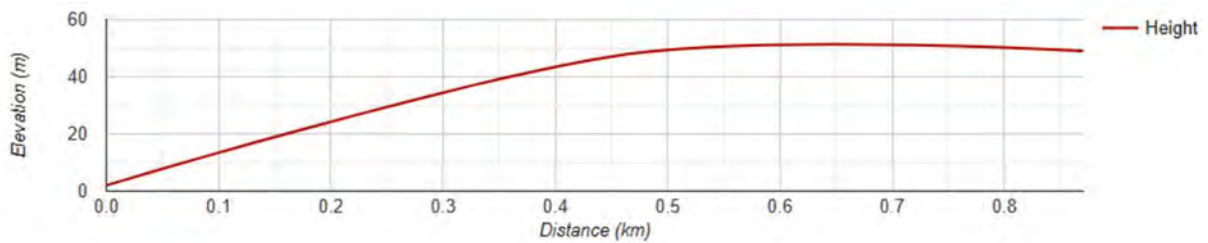
*Digital connectivity is vital to enable people to stay connected and businesses to grow. Fast, reliable digital connectivity can deliver economic, social and well-being benefits for the whole of the UK.*

*As the demand for mobile data in the United Kingdom is increasing rapidly, it is **important that everyone has access to dependable and consistent mobile coverage** where they live, work and travel.” (The Code, paragraphs 2, 8 & 9)*

73. Under the heading ‘General Siting and Design Principles’, the Code establishes that *“In urban areas, where there is a high level of demand for mobile data, mobile base stations are likely to need to be deployed more densely. In these settings you can expect to see **more use of streetwork monopoles and rooftop installations**”* (paragraph 29). The Appeal Site fits this description. It is proposed to install a high-capacity street-work pole.
74. In relation to ground-based masts, the Code advises that *“masts should be sited, **so far as is practicable**, so as to minimise their impact on their setting. This includes siting **next to similar structures** - streetworks masts, for example, should ideally be sited in line, and in harmony, with existing vertical infrastructure, such as street lighting columns, to minimise their visual impact. Placing a mast within or adjacent to an existing **group of trees**, vegetation and other natural features can reduce visual impact. Care should be taken to minimise the unnecessary loss of existing trees, though antennas will need to be **sufficiently elevated** to clear the tree-line”* (para. 39)
75. The siting of the Appeal Proposal has sought to minimise impact, so far as is practicable. Siting the proposed mast next to a lighting column, similarly linear in form and utilitarian in appearance, follows the best practice outlined above. So does selecting a site that has trees in the immediate setting.
76. Under ‘Technical and operational considerations’, the Code acknowledges *“wireless network installations are principally **guided by the technical need for the site and the technical constraints placed upon transmitting a signal**. The siting and design of such installations must therefore be balanced between visual impact and these needs and constraints”* and that *“**Planning authorities should take account of these constraints**, and those set out below, on network deployment and siting and design, when considering proposals”* (paragraphs 64 & 65). The Appeal Proposal was affected by such constraints and aimed to strike a balance between providing improved connectivity to the local area and protecting landscape, visual and residential amenity.
77. The Code goes onto explain the additional challenges of delivering 5G services, which is applicable to the Appeal Proposal:
- “With the introduction of 5G, more equipment will be required to provide coverage and capacity. 5G, as well as 4G, are data-driven technologies, and high volumes of data will be transmitted between base stations and wireless devices. 5G will require a denser network of base stations than previous generations, including more fixed line fibre optic cable for reliable and high capacity backhaul. **The siting of 5G installations will be more constrained and guided by these special technical and operational considerations**”* (paragraph 66)
78. In summary, the siting and design of the Appeal Proposal has been developed in accordance with the Government’s ‘Code of Practice’, aiming to reduce visual impact as far as is practicable, factoring the technical and operational challenges of delivering such infrastructure.

## 5. Site Selection & Alternatives Sites

79. The application documents detail that there are numerous constraints associated with site placement in wireless network planning, and it has already been touched upon within this statement that each radio base station can only cover a limited geographical area, known as a cell, and that cells are designed to overlap to form an unbroken network.
80. Site placement is always critical in network planning because new coverage must be integrated within an established cellular pattern. There is a specific and unique gap in the network, like a piece from a completed jigsaw, which needs to be filled and will enable users living, working within and passing through that area to reliably use their mobile phones and other wireless devices. This places even greater limitations on the potential siting opportunities because many locations will not enable this specific gap to be adequately filled, without compromising the existing network. The new base-station must be located near to the area that it will provide coverage to, which in this case is Staithes.
81. When seeking to identify a location for a new base-station site in this instance, the Appellant's Agent applied the sequential site selection process, as is advocated within the Government's Code of Practice for Wireless Network Development in England (2022) (COP). Led by the Department for Digital, Culture, Media and Sport (DCMS), the Code of Practice has been developed in collaboration with representatives of the mobile network industry, other government departments and public bodies, local planning authorities, and protected landscapes.
82. Para. 64 of the COP relates to Technical and operational considerations and states:
- "All wireless network installations are principally guided by the technical need for the site and the technical constraints placed upon transmitting a signal. The siting and design of such installations must therefore be balanced between visual impact and these needs and constraints. As set out in the siting and design section above, the three primary technical and operational considerations for installation sites are: ensuring that wireless infrastructure provides an appropriate level of coverage over the intended geographical area; ensuring that sites have sufficient capacity to meet user demand; and, requiring a connection to the wider network 'backhaul'"*
83. The prior approval application supporting document 'Site Specific Supplementary Information' (p10) detailed several alternative sites that were considered, along with the reasons for them being discounted. The topography of Staithes presented a significant constraint on identifying a suitable site. The Appeal Site is one of the more elevated locations in the village and the image below shows that land elevation drops quite dramatically to the north of the site, leading down to the coast. Siting a base-station in this area of low elevation would not enable the radio waves to reach the higher elevated parts of the village, unless an unfeasibly large scale and tall mast was deployed. Such a proposal would be wholly inappropriate inside the national park.
84. Should a mast of comparable scale to that of the Appeal Proposal be installed on lower land in the north of the village, then a second mast and base-station would be required to provide coverage to the "not-spots" that would remain in the higher part of the village in the south. The Appeal Site is ideally located in that it is centrally located in the village, enabling a single base-station to provide 360-degree coverage, reaching users all around the village and surrounding areas. This is in full accordance with the NPPF which seeks to avoid the proliferation of masts.



Metric  Imperial

Point Description	Distance (km)	Height (m)
Point A	0.000	2
Point B	0.467	48
Point C	0.870	49

Graph and table showing the difference in land elevation, rendering sites to the north of the Appeal Site too low: harbour – 2m / Appeal Site – 48m / location further inland – 49m. Data and image source: Grid Reference Finder<sup>21</sup>

<sup>21</sup> Grid reference finder:  
[https://gridreferencefinder.com/#gr=NZ7828618943|Point\\_s\\_A|1,NZ7814518497|Point\\_s\\_B|1,NZ7808918097|Point\\_s\\_C|1](https://gridreferencefinder.com/#gr=NZ7828618943|Point_s_A|1,NZ7814518497|Point_s_B|1,NZ7808918097|Point_s_C|1)

85. In accordance with the NPPF and best practice, the sequential process first assessed the potential of established telecom sites, the search then moved onto identifying whether the proposed equipment could be sited onto an existing structure such as a building, before moving onto greenfield locations at which to install a ground-based mast. In this case, there is an absence of established telecom sites in the area that could be shared. The existing base-stations are located too far away, meaning the radio coverage cannot reach Staithes. If the appellant could utilise an existing installation, it would not be wasting significant time and money progressing another site if there was no need to do so. It would not make financial sense.
86. Similarly, the buildings are mainly in the form of low-level dwellings. The non-dwelling buildings are all too low to provide adequate height for radio operations, should equipment be sited onto them. Furthermore, often they don't have a solid and flat rooftop which is a design requirement. To elaborate, with pitched roofs there is no flat surface to secure equipment to and therefore this type of roof does not offer a structural solution. In terms of wall mounted antennas, the supporting steel-work would need to be very tall in order to prevent the antennas' radio signal from being blocked by the host building, including its roof. With consideration to the significant weight of the latest 4G and new 5G antennas and supporting electronic equipment, typical buildings are not designed to support such a structure. For example, walls with windows are not as structurally capable of supporting heavy equipment. The walls are also not tall enough to support the actual length of any supporting poles that would be needed to provide the necessary height to reach the target coverage area. As such, these poles would not be able to be secured to the walls effectively. Furthermore, the supporting steel-work would need bolts to go through the entire wall and be secured internally on back plates and inspected every year, which is impractical.
87. The only option was therefore to find a site for a new ground-based mast and the Appeal Site was found to be the most suitable site available after completing this selection process. The planning decision does not suggest that there is a more suitable site available that would meet technical requirements.
88. Siting considerations for a new ground-based mast include:
- Avoiding impacting underground/above ground utility services
  - Topography of the site and vegetation
  - Openness and visibility of the site
  - Relation to existing base-stations
  - Protecting residential and visual amenity
89. Inspectors at appeal have made clear comments on the exploration of alternative sites, such as in an appeal for installation of a telecommunications monopole on the footpath of Brewery Road at the junction of Piedmont Road, Plumstead, which was refused by the Royal Borough of Greenwich (PINS ref: APP/E5330/W/16/3159250). The Inspector considered the siting and appearance of the proposal:
- “Interested parties have raised concerns about... whether sufficient exploration of alternative sites has been undertaken.... with regards to alternative sites, I have noted the appellant’s submissions within the Supplementary Information, but I am mindful that even if alternative sites were available, **there is no requirement within the Framework or the GPDO for developers to select the best feasible siting**”.*  
(para. 9)
90. Regardless, in this case, the appellant is certain that the Appeal Site *is* the best site available and this has not been challenged by the Local Authority. The Appeal Site is the best available that will meet technical requirements, while protecting residential amenity and limiting visual change. If there was

an equally suitable site available that would result in less visual impact, then the Appellant would have put the site forward into planning as oppose to lodging this appeal.



*Location of alternative sites considered and search area. Map source: Google*

1. Existing mast at the edge of the coastline, Staithes, TS13 5AA

The radio planner has discounted sharing this mast because of its location right on the coastal edge. It is some 700m from the main target area and therefore the mast performance would see minimal benefit, to the extent that a second mast would still be required to be located more centrally in Staithes, further inland (i.e. the Appeal Proposal). The dramatic difference in land elevation between the coast line and central Staithes is a key contributing factor to this.

2. Building: Our Lady Star of the Sea Catholic Church, Staithes Lane, Staithes, TS13 5AG

This church building has a low-pitched roof which would not present a suitable design for securing radio equipment too. Face mounted antennas on the bell tower would be unfeasible because the tower is too low to provide sufficient elevation for the antennas' radio waves to clear surrounding buildings.

3. Recreation Ground off Seaton Crescent, Staithes, TS13 5AE

Planning permission was granted for a mast in this location some years ago. However, there was intense local opposition presented during the planning application process, and subsequently a legal challenge was sought to prevent the Operator from developing the mast and therefore this option was not pursued any further.

4. Seaton Hall Farm, Whitby Road, Staithes, TS13 5AT

This location is too far south of the central Staithes target area and therefore would not provide sufficient coverage. A second mast, located more centrally in Staithes, would still be required.

5. Land of Cliff Road, Cliff Road, Staithes, TS13 5AE

The Appellant entered discussions with the Site Provider for a mast installation within this locality and following further consultation, the site provider decided not to proceed due to concerns about local residents' likely opposition, whose residential properties face directly on to his industrial unit from Cliff Road.

6. Red House Farm, Cowbar Lane, Staithes, TS13 4U

This location is too far away from the central Staithes target area and therefore siting a mast here would not provide sufficient coverage. A second mast, located more centrally in Staithes, would still be required.

7. Land at Co Op convenience store, Hinderwell Lane, Staithes, TS13 5AL

This convenience store has insufficient space inside its curtilage to accommodate the equipment, without losing already very limited carpark spaces and operational space around the building. The site is also over by dwellings meaning that siting equipment there would result in greater impact on residential amenity, relative to the Appeal Site. The site is also in close proximity to Seton Community Primary School and, given the history of legal challenges in this area, the proposal would likely result in significant public objection. Furthermore, the site is at the edge of the search area and therefore the resulting coverage area would be less effective than that of the Appeal Proposal.

8. East Cliffe Lodge, Staithes, TS13 5AE

The Radio Planner reviewed this location and concluded that this option does not provide the level of coverage required to the target area. The difficult topography of the local area, with substantial changes in land height over short distances, makes the delivery of ubiquitous coverage extremely challenging, and therefore there are very limited areas within which the infrastructure can be sited if it is to deliver the service expected. No location within this farm-holding allows for the delivery of service to all of the target area, and particularly to low lying areas to the west. The Appeal Site does meet this requirement.

91. In summary, the Appeal Site is the best site available that will meet technical requirements, in what is a very constrained area for radio planning, with respect to local topography, the presence of dwellings and landscape sensitivity.

## Section 6: Response to Reason for Refusal

### 6.1 Landscape and Visual Impact

*“The proposed single 17.5m mast, would, by reason of its height towering above nearby buildings and trees, constitute a dominating and unduly obtrusive feature in the wider townscape and have an adverse impact on the landscape and character of this part of the National Park contrary to Strategic Policy A and Policy BL10 of the Authority's Adopted Policies as set out in the Local Plan, which seek to conserve and enhance the landscape and ensure that the development does not have an unacceptable adverse visual impact upon the character of the locality and the wider landscape” (Decision Notice)*

92. In reviewing the planning decision, it is interpreted that the concern about the proposal is the visual impact of the mast on the immediate locality and on the wider landscape, specifically arising because of the height of the mast. The general appearance of the proposed mast and its width, the presence of the proposed equipment housing cabinets and the finding presented in the planning application that the Appeal Site is the most suitable available in an area, where there is a lack of site options that will meet technical requirements, is not challenged in the decision and these matters are not a reason for refusal. They should therefore not be a matter of relevance to this appeal. The proposal would not impact residential amenity, heritage assets, ecology or arboriculture. This is accepted in the planning decision. In this respect, the Appeal Site is of lower sensitivity relative to other sites in the surrounding area.
93. In terms of mast height, where ever this type of telecoms mast is installed, and there are thousands of examples across the country, it is almost always the highest structure at the locality. The nature of the technology means that it must be in order to allow the antennas' radio waves to provide connectivity to the surrounding area, without being blocked by surrounding buildings and trees. Other street-furniture, such as nearby streetlighting columns, does not have the same operating requirements, so they therefore do not need to be so high.
94. The Appeal Proposal features the latest generation street-work mast which is higher than previous generations because it must physically support antennas, and other radio equipment, that is capable of providing both improved 2G and 3G services, plus the addition of the latest 4G and new 5G services. The antennas are therefore larger and heavier than their predecessors because of their higher technical capability, and consequently they require a more structurally robust mast to support them. Furthermore, the frequencies that 5G operates at is particularly sensitive to interference from solid obstructions, such as trees and buildings, and as such the antennas must be elevated higher than previous generations of antennas, so that they can clear such obstructions and operate effectively.
95. The proceeding paragraphs should be read in conjunction with the Photomontage Pack (file name: 205715 - Montage Pack V2).

#### Image 1

96. Images 1a and 1b show the landscape and visual change from the coastal road of Cowbar Lane, to the north-west of the Appeal Site. To its merit, it is observed that the proposed mast is viewed as part of the established settlement in which it is located, set amongst a dense pattern of multi-storey buildings. Similarly, the mast is viewed against the backdrop of the hill, the ridge of which the mast is well below.



In this view, if the mast was to be sited to the west of the Appeal Site, where it would not benefit from the backdrop of the hill, then the mast would appear starker and result in higher impact.

97. Additional merits of this site, with respect to limiting landscape and visual impact, come from its position adjacent to the high-level trees immediately east of the site, when viewing the mast from Viewpoint 1. Likewise, when casting the eyes further to the east of the trees, the row of buildings on land that is elevated higher than the Appeal Site, including a cream-coloured three-storey building (Captain Cooks Inn, No. 60 Staithes Lane), all provide beneficial site context to aid the absorption of the mast into the settlement and surrounding landscape.
98. More generally, it can be seen that despite the mast being the tallest manmade feature at the locality, as it must be for effective radio operations, that by virtue of its slimline design and small mass, it no way dominates the landscape. The mast would have a small ground footprint, particularly relative to the neighbouring industrial units. Sure we have some appeal decisions that make this point – see PINs decisions attached to my email back to you with my comments.

#### Image 2

99. Images 2a and 2b show the landscape and visual change from the A4174 highway, to the south-east of the Appeal Site. And again, the mast is clearly viewed as part of the well-defined settlement, as oppose the very open fields that surround the settlement. The undulating topography of the surrounding landscape helps to reduce the prominence of the mast.
100. In this view, the three-storey building at No. 60 Staithes Lane is particularly prominent and the mast would be viewed alongside it, and as subordinate to this dominant feature of the townscape. The upper-section of the mast would be viewed against the background sky, and the proposed Light Grey finish was selected to minimise contrast with such a background. Once again, the mast would be accurately viewed as being well below the ride of the hill, to the east of the mast in this view.

#### Image 3

101. Images 3a and 3b show the landscape and visual change from an elevated position on Cliff Road, to the east of the Appeal Site. What's most apparent from this view is that Staithes and the surrounding area has industrial development. The multiple industrial units located near to the site on Whitegate Close are clearly visible. By far the most dominant man-made feature of the local landscape is Boulby Mine which is a large industrial facility with buildings that include chimney stacks. In this site context, the addition of a slimline mast would result in a very low impact on the landscape. This industrial site is located too far away from the target coverage area for it to accommodate the proposal.



*Extract from  
photomontage,  
showing proposed mast  
(arrow) in relation to  
Boulby Mine (circled)*

**Image 3b**

Proposed view from Cliff Road looking North West.

102. It is concluded that owing to the site's built-up context, and neighbouring multi-storey buildings and background hills, that while the proposed mast would clearly be visible, it would not dominate the landscape, nor result in an unacceptable degree of visual impact. The level of impact would be moderate and outweighed by the need and public benefits of the proposal.

## 5.2 Development Plan Policies

*“The proposed single 17.5m mast, would, by reason of its height towering above nearby buildings and trees, constitute a dominating and unduly obtrusive feature in the wider townscape and have an adverse impact on the landscape and character of this part of the National Park **contrary to Strategic Policy A and Policy BL10 of the Authority's Adopted Policies as set out in the Local Plan**, which seek to conserve and enhance the landscape and ensure that the development does not have an unacceptable adverse visual impact upon the character of the locality and the wider landscape” (Decision Notice)*

### STRATEGIC POLICY A: ACHIEVING NATIONAL PARK PURPOSES AND SUSTAINABLE DEVELOPMENT

103. Strategic Policy A details that decisions will be taken in-line with National Park statutory purposes, which are:

*‘1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;  
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public’*

104. While it is acknowledged that the National Park is sensitive to visual change, it is highlighted that the Application Site and its setting are of a partly commercial and urban character. The site is set amongst a row of garages – utilitarian and functional in appearance – as well as a cluster of donation banks, associated fencing, and adjacent carpark with its associated lighting infrastructure. There are industrial units a short distance to the east of the site. This is the context that the proposal would be viewed against. The proposal would therefore ensure that ‘natural beauty, wildlife and cultural heritage’ of the national park is conserved (statutory purpose No. 1). If the proposal was to be sited elsewhere, such as nearer to the coastline or in an agricultural field outside of the settlement boundary, then these conservation aims would be adversely affected.

105. There is no apparent conflict with the policy aim to promote the understanding and enjoyment of the National Park (statutory purpose No. 2). On the contrary, the enhanced digital connectivity from the

106. proposal, which will benefit a high number of people, will open-up new opportunities for the public to use mobile applications that encourage public engagement in conservation and navigation, for example. Such downloadable phone applications are also used by customers of businesses and for routine transactions, such as paying for carparking. Without the reliable mobile connectivity that this type of proposal facilitates, these applications simply do not work.

107. With respect to sustainable development, which includes being *‘of a high quality design and scale which respects and reinforces the character of the local landscape and the built and historic environment’*, the aim for the design and location of development to respect its surroundings has been achieved, as far as is practicable when installing infrastructure onto the highway, where it will always be visible to the public.

108. The prevailing character of the locality is respected through the use of equipment that is specifically designed to meet operational needs and integrate into the street-scene. The design has been proven to integrate particularly well into urban environments where existing street-furniture is present, like ,

that of the Appeal Site. The proposal would not impact any designated heritage assets, such as conservation areas or listed buildings.

109. Furthermore, the proposal is of 'high quality design'. For example, the proposed materials are of high-quality, designed for longevity in an outdoor environment. In relation to design safety and security, this has been achieved with respect to the proposed installation of a street-work mast, which has been designed to be safely installed in publicly accessible areas without the need for security fencing. Conversely, a greenfield site may require a fenced compound because the model of mast at such a site would be different and could be climbable. The proposed equipment cabinets are also inherently secure by design. The equipment is infrastructure that has been designed to be adaptable in response to future technological advancements in mobile communications. The proposal adheres to the general thrust of Criterion a.
110. With respect to the other policy criterion that defines sustainable development, the proposal supports the function and vitality of communities by providing access to digital services and employment opportunities e.g., remote working (criterion b); it protects natural capital and the ecosystem (criterion c); it maintains geodiversity and biodiversity (criterion d); it builds resilience to climate change through mitigation of its effects e.g. providing mobile internet for online shopping, medical consultations etc, which reduces car journeys (criterion e); the site is previously developed land (criterion f); and the proposal does not reduce the quality of soil, air and water in and around the National Park. In summary, the Appeal Proposal accords with Strategic Policy A, particularly when the policy is taken as a whole.

#### POLICY BL10: COMMUNICATIONS INFRASTRUCTURE

111. The principle of Policy BL10 is that proposals for digital infrastructure will be approved where its scale and design is appropriate. It has been discussed that the mast has already been reduced in height, following an initial planning refusal for a preferred higher mast which would have been operationally more effective, and that reducing its height any lower than the 17.5m high mast that is the Appeal Proposal would render the proposal operationally ineffective. In terms of mast design, this is a slim-line 'street-work' style mast which is specifically designed to be installed onto the highway and be relatively inconspicuous. There are thousands of examples of the same mast being installed across the UK and they are so common place that individuals don't typically notice their presence. This is particularly the case sometime after they are installed, when they become an accepted part of the street-scene.
112. Policy BL10 details five criteria that proposals will be appraised against. Two of the criteria (1 and 3) relate to there being no alternative site that is more suitable and selecting the least environmentally intrusive site option, subject to technical issues. Section 5 of this statement addresses site selection and the technical constraints imposed on the process. It also detailed that several alternative sites that were considered and found to be either unfeasible, or that siting there would result in higher impact than siting at the Appeal Site. Site selection was not a reason for refusal and the local authority has not challenged the fact that the Appeal Site is the most suitable site available. The proposal complies with criteria 1 and 3.
113. Criterion 2 is that there is that there is 'no unacceptable adverse visual impact'. The appellant accepts that there would be a degree of visual impact, which given the nature of the infrastructure and the constraints limiting where it can be sited, is inevitable. The visual assessment in this statement (section 6.1) shows that the degree of landscape and visual change would be moderate and within acceptable limits. It's important to notice that the criterion test is not that there should be *no* adverse impact,

and instead that impact should be within an acceptable level. There is a degree of the tolerance, acknowledging the nature of communications infrastructure.

114. The proposal is part of a coordinated, long-term strategy for the provision of telecommunications technology, including the introducing 4G and 5G services to this part of the national park (criterion 4). It is standard practice and here confirmed that the proposed equipment would be removed from the site if it becomes redundant in the future (criterion 5).
115. The proposal adheres to Policy BL10 when appraised, as a whole. The moderate landscape and visual impact would be outweighed by the public benefits of providing much needed advanced digital connectivity to the area. The Local Plan acknowledges the need and benefits of the type of infrastructure proposed:

*'Modern communications are increasingly vital to those living in, working in or visiting the National Park. They provide online access for residents to services that otherwise can be physically located miles away, they are essential for businesses that are located or would wish to locate in the National 106 North York Moors National Park Authority Local Plan July 2020 Park – especially in the tourism sector. They can also help visitors in their understanding of and navigation around the North York Moors. However the remoteness and terrain of much of the National Park imposes limitations on services and deficiencies continue to exist.'* (paragraph 6.41, Local Plan)

## Section 6: Other Considerations

### Appeal Decisions

116. Appeal decisions by the Planning Inspectorate can be of material consideration in the determination of appeals. The cases below are examples where the Inspector awarded notable weight to the improved coverage and network capacity arising from new electronic communications. The Appeal Proposal is required in order to deliver the same improvements. See Appendices for all appeal decisions in full. Emphasis added to the below quotes from the decisions which were all allowed.
117. Appeal case a) and b) are noteworthy due to the recognition by the Inspectors that the COVID-19 pandemic has permanently increased the public's reliance on mobile communication. Both of these appeals relate to proposals inside a conservation area; the Appeal Proposal would not result in any harm to heritage assets and may be considered sequentially preferable to these sites.

a) 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**”*

b) APP/X5210/W/20/3254104 - Cornerstone and Telefonica UK Ltd and Vodafone 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....***

*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”...*

**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...***

## Section 7: Summary

118. The Appeal Proposal would provide significant improvements to the provision of digital communication services in an area where there is coverage gap on the Operator's network at present. The proposal would introduce the provision of 4g and 5G services, and increase network capacity. And in doing so, the proposal would deliver notable social, economic and environmental benefits which are in the public interest.
119. The Appeal Proposal would contribute to increasing network capacity and capability for one of the UK's licenced operators, providing improved services to a high number of users in the surrounding area, including residents, tourists, businesses and commuters. Additionally, the Operator leases part of its licenced phone and data spectrum to third-party companies, known as Mobile Virtual Network Operators (MVNO). These companies then provide mobile connectivity to their customers under their own agreements. These companies include Giff Gaff, Virgin Mobile, Sky Mobile and Tesco Mobile. The public benefits of the proposal therefore reach a higher number of individuals and businesses than has been appreciated in the planning decision.
120. The development proposed is the minimum amount and scale of equipment possible, consistent with the need to meet operational requirements. The Appeal Site was found to be the most suitable site available, that is capable of meeting design and site selection criteria for delivering advanced digital connectivity to the area. This principle was not challenged in the planning decision.
121. The Appeal Proposal is permitted development, subject to seeking approval for its siting and appearance only. In this regard, it has been demonstrated the proposed siting and appearance would not change the existing suburban character of the surrounding area, and that impact on the streetscape would be limited. The appearance of the proposal is as discreet as its functionality will allow. It has been specifically designed to integrate into a highway setting and similar equipment is commonplace across the country.
122. The Development Plan supports the provision of new infrastructure to meet the borough's ever-increasing demands. The Appeal Proposal is for advanced digital infrastructure that is urgently needed at this locality. 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.
123. The public benefits of the Appeal Proposal are far reaching and there is a strong case that they convincingly outweigh the limited level of harm that would arise. The material consideration of paragraph 114 of the NPPF is particularly pertinent in recalling these benefits:
- “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”*
124. It is concluded that the proposal would result in limited impact to its surroundings and this impact is outweighed by the urgent need and arising public benefits. The Inspector is respectfully requested to allow the appeal and give the Appeal Proposal its Prior Approval.



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## Appeal Decisions

Site visit made on 18 November 2020

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2020

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Appeal A: APP/A1910/C/20/3256772

Appeal B: APP/A1910/C/20/3256773

Land at Leighton Buzzard Road, Hemel Hempstead, Hertfordshire HP1 1BS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- Appeal A is made by Telefónica UK Limited and Appeal B by Cornerstone against an enforcement notice issued by Dacorum Borough Council.
- The enforcement notice was issued on 4 June 2020.
- The breach of planning control as alleged in the notice is: *Without planning permission, the siting of a telecommunications mast, associated equipment and base.*
- The requirements of the notice are:
  - Step 1: Remove telecommunications mast, associated equipment and base and all resulting materials from the land.
  - Step 2: Restore the land to its condition before the development took place.
- The period for compliance with the requirements is 4 months.
- Both appeals are proceeding on the grounds set out in section 174(2)(a), (e) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought under ground (a) an application for planning permission is deemed to have been made under section 177(5) of the Act.

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### Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made, under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the erection of a telecommunications mast, associated equipment and base on land at Leighton Buzzard Road, Hemel Hempstead, Hertfordshire HP1 1BS referred to in the notice, subject to the following condition:
  - 1) The telecommunications mast and associated equipment hereby approved shall be totally dismantled and permanently removed from the site within 12 months of the date of this permission and the land restored to its former condition.

### Background

2. Telefónica UK Ltd and Vodafone Ltd have supplied the local area with a mobile network coverage from a base station on the roof of Hamilton House, 111 Marlowes, in the centre of Hemel Hempstead close to the appeal site.
3. Following notice to quit Hamilton House, as the building was being refurbished, a temporary base station was deployed at the appeal site as an



emergency installation for a period not exceeding 18 months under permitted development rights (PD) under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) **(the 'GPDO')**.

4. The emergency base station that was installed, and which I saw on my visit, comprises a 24 metre high lightweight lattice mast, with 3 antennas, 2 dishes and 2 equipment cabinets all within a fenced compound and ancillary works. The mast was sited on top of a base of what looked like concrete slabs. The base station was intended for a temporary 18 months while a replacement site and permanent solution was found. The parties agree that the 18 month temporary expired in April 2020.
5. The appellants submitted a Prior Approval application<sup>1</sup> for a permanent telecommunications base station on the roof of Joseph Maitland House, 35 Marlowes, located close to the appeal site. On 26 May 2020 the Council **confirmed that 'prior approval is not required'**, hence allowing a new replacement base station at the nearby Joseph Maitland House.
6. The appellants also submitted a planning application<sup>2</sup> at the end of March 2020 to retain the temporary telecommunications base station at the appeal site for a further 2 years, to allow time to negotiate rights for occupation and to build and commission the replacement base station on the roof of Joseph Maitland House. This temporary planning application was refused on 26 May 2020.
7. Following refusal of planning permission, on 4 June 2020 the Council issued an enforcement notice against the temporary base station at the appeal site, requiring its removal within 4 months.

#### The Appeal on Ground (e)

8. An appeal on ground (e) is that copies of the notice were not served as required by s172 of the Act – that is, on the owner(s) and occupier(s) of the land to which it relates; and on any other person having an interest in the land, being an interest which, in the opinion of the Council, is materially affected by the notice. It is a legal ground of appeal and the onus is on the appellants to make their case on the balance of probability.
9. The appellants contend that only Telefónica UK Ltd was served directly with a copy of the enforcement notice and Cornerstone<sup>3</sup> were not notified via direct correspondence as they should have been. Whilst the agent has now forwarded relevant copies of the notice to the relevant parties, they assert that this is not sufficient for the Council to fulfil the criteria required by s172(2) and question the validity of the notice. Furthermore, the agent states that Telefónica UK Ltd did not bring the matter to the attention of Cornerstone.
10. The Council did Land Registry and highway checks to reveal that the Homes and Communities Agency were landowner, and Hertfordshire County Council had an interest in the land as the mast was located on highway that is

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<sup>1</sup> LPA ref: 20/00833/TEL

<sup>2</sup> LPA ref: 20/00803/FUL

<sup>3</sup> Cornerstone Telecommunications Infrastructure Ltd

maintainable at public expense. The notice was served on both of them. From previous correspondence with the agent, the Council was under the impression that the agent was representing Telefónica UK Ltd only.

11. I note that the covering letter submitted to accompany the planning application explains that Telefónica UK Ltd has entered into an agreement with Vodafone Ltd to jointly operate and manage a single network grid across the UK. These arrangements are overseen by Cornerstone, which is a joint venture company owned by Telefónica UK Ltd and Vodafone Ltd. This indicates to me a close relationship and connection between the two companies and appellants.
12. The enforcement notice was served on "**Cornerstone and Telefónica UK Ltd**" at an address at 260 Bath Road, Slough SL1 4DX. This address is the same one that the appellants gave on the planning application form, submitted for the 2 year retention of the mast at the appeal site. Furthermore, the address both appellants have given on the appeal form is also 260 Bath Road.
13. Therefore, a copy of the enforcement notice was served at the address currently used and given by both appellants, even if the notice was not served at **Cornerstone's registered office. I find the Council's use** of this address was not unreasonable in light of recent communications. The fact that Telefónica UK Ltd failed to bring the matter to **Cornerstone's** attention is a private matter between Telefónica UK Ltd and Cornerstone.
14. I find that on the balance of probability the notice was served as required by s172 of the Act. In any event, s176(5) provides that failure to serve the notice as required may be disregarded if the appellant or person required to be served with a copy of the notice has not been substantially prejudiced. Both Cornerstone and Telefónica UK Ltd have appealed the enforcement notice jointly and therefore neither party has been substantially prejudiced.
15. The appeal on ground (e) therefore fails.

## The Appeal on Ground (a) and the Deemed Planning Application

### Main Issues

16. The main issues in this case are: -
  - The effect of the appeal development on the character and appearance of the area, and
  - The effect of the appeal development on the setting of the Hemel Hempstead Water Gardens, a Grade II Registered Park and Garden.

### Reasons

#### *Character and appearance*

17. The appeal mast is located on a wide grassed highway verge on the eastern side of Leighton Buzzard Road, a main vehicular thoroughfare in and around the town. The mast is also adjacent to a junction of pavements and a traffic light controlled pedestrian crossing that links the residential properties on the western side of Leighton Buzzard Road to the town centre. By the mast and pedestrian crossing, the route cuts through a hedge that helps screen the surface and multi storey car parks of Water Gardens (south) and Water

Gardens (north) respectively. Bridge Street straddles the River Grade that runs through the centre of the Water Gardens, a Grade II Registered Park and Garden, and continues into the town centre.

18. Despite the electricity cabinets near the traffic light crossing, the verge is relatively uncluttered with street furniture, and street lamps are slimline with a simple bent flat head.
19. There are some trees along Leighton Buzzard Road and a few in the adjacent Water Gardens. Whilst they provide some short lived screening on the distance approaches along the road, there are none on the verge in the immediate vicinity of the mast. As such the mast occupies an open and prominent location on the wide verge, read principally against the sky from various viewpoints. It is highly visible to those living in the houses opposite, to passing traffic on this main route and to pedestrians walking past and those waiting at the pedestrian crossing.
20. Despite the see-through lattice structure, the mast has an excessive bulk due to its triangular tower construction and the large concentre slab on which the mast is placed with metal fencing around. Furthermore the black electricity cabling that runs up the mast and the three antenna and dishes spaced out at the top viewed against the sky compound this. As a result, the lattice tower construction is wider and more noticeable than most monopole masts and detracts from the relatively uncluttered street scene.
21. I appreciate that the mast was an emergency temporary installation, unlike the masts cited in the various appeal decisions submitted as examples, and its design reflects its necessity and function. And telecommunication installations are more common features these days. Nonetheless this lattice tower mast appears unduly makeshift, especially with the metal security fencing around it and the overgrown grass. Furthermore, with the lattice tower approximately twice the height of nearby street lamps and being silhouetted against the sky, it appears as an unduly discordant vertical spikey intrusion. And this visual intrusion continues when seen from public vantage points around, including from the adjacent Water Gardens.
22. For the reasons above I find this temporary lattice mast construction unacceptably harms the character and appearance of the area. Accordingly it conflicts with Core Strategy Policy CS12, which seeks to ensure that development is designed to integrate with the street scape in which they are sited.

#### *Setting of Grade II Registered Park and Garden*

23. The mast is immediately adjacent to the Civic Water Gardens. Being a grade II Registered Park and Garden they are a designated heritage asset to which great weight should be given to its conservation, in accordance with paragraph 193 of the Framework.
24. The gardens were designed by Geoffrey Jellicoe in the 1950s, who was a foremost landscape architect and planner who master planned Hemel Hempstead New Town **as a 'city in a park'**. An integral component of this was the linear Water Gardens running over 600 metres in length north south with the River Gade flowing through. It was intended as a place for pleasure and relaxation. It is attractively landscaped with canals, weirs, bridges, viewing

- platforms and associated planting **by Jellicoe's wife**. Their significance derives from them being a rare and intact example of a town centre water garden created during the post-war renewal and new town development. They are experienced from within and out as there is no solid boundary to them.
25. Waterhouse Street runs parallel to the gardens on its eastern side and is another main thoroughfare linking to the town centre, from which the gardens can be enjoyed. Bridge Street forms a central crossing over the gardens, complemented on either side by pedestrian footbridges. Bridge Street provides vehicular access to the car park entrances, and pedestrian access to the traffic light crossing on Leighton Buzzard Road. Approaching the car parks and crossing on Bridge Street, the mast is clearly visible, although a tree provides partial screening for a short while.
  26. The Council advises that since the gardens have been restored they are used more. Whilst I visited during a national lockdown, I saw on my visit that the gardens were well maintained and in good use by people of all ages sitting and walking and were obviously appreciated. I found the gardens provide a landscaped heart to the town centre, offering peace and tranquillity despite their proximity to both the town centre and Leighton Buzzard Road.
  27. There are various sustained views and designed vistas of the Water Gardens from Waterhouse Street and Moor End Road at the southern end. From here the appeal mast is clearly visible against the sky. Whilst there are lampposts along Waterhouse Street, an expected feature of a highway, their uniformity and low slimline design does not detract. However, the appeal mast, with its lattice tower and the spaced out antennae at twice the height of the average lamppost viewed against the sky, are visible in the designed longer vistas. They are an unwelcome and incongruous visual intrusion that detracts from the attractive designed landscape and is harmful to the setting of the designated heritage asset.
  28. The Code of Best Practice on Mobile Network Development (November 2016) advises that for proposals which affect designated heritage assets, operators should seek a meeting at the earliest possible stage with the local planning **authority's conservation officer and where appropriate Historic England**. I understand this did not happen when the mast was installed as an emergency. Notwithstanding this, the Code advises that account should be taken of the visual impact of the proposals on the significance of the site and its setting. For the reasons above I find the mast is harmful to the setting of the registered Water Gardens.
  29. The harm would nonetheless be less than substantial. In such circumstances, paragraph 196 of the National Planning Policy Framework (**'the Framework'**) advises that the harm that would be caused should be weighed against the public benefits of the proposal.
  30. Retention of the temporary base station is required until such times as a permanent solution can be implemented, in order to maintain network coverage and capacity whilst also supplying 4G services in the Hemel Hempstead Town Centre area, the residential area beyond this to the north, west and east, and the Hemel Hempstead General Hospital following the decommissioning of the previous base station site that was located on Hamilton House, Marlowes, Hemel Hempstead.

31. Paragraph 116 of the Framework requires that decisions are made on planning grounds only and paragraph 114 states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. 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.
32. The **government's** advice<sup>4</sup> 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."
33. The appellant has been granted Prior Approval for a replacement base station on the roof of Joseph Maitland House, but the site is not yet ready and will take more than the 4 months given in the enforcement notice. I understand the replacement site is being progressed under an Electronic Communications Code Agreement via the courts. However, I have not been furnished with any substantial evidence as to why a replacement base station was not secured in advance of the temporary consent expiring, which the appellant would have been well aware of. Nor has the appellant submitted any substantive evidence or timeline to explain any delays in getting the replacement base station up and operating at Joseph Maitland House to indicate why a substantially longer period of 24 months is needed. Nonetheless, I have no evidence to raise doubt in my mind that the replacement base station site will not be forthcoming or to doubt that the appellants have every intention of bringing the development to fruition.
34. Due to the unprecedented times we are currently in and the heightened use and dependency on telecommunications, I consider it would not be in the public interest to see the coverage in the town centre disrupted until a replacement facility is brought into operation.
35. Whilst there would be some conflict with Core Strategy Policy CS27, which seeks to protect and conserve the integrity, setting and distinctiveness of designated heritage assets, I find that retaining the base station in its current position for a short-term period, while the approved alternative base station site is made operational, amounts to a public benefit of sufficient weight to outweigh the temporary harm to the heritage asset of the Water Gardens.

#### Conditions

36. The Council has suggested one condition that would require the appeal development to be totally dismantled and permanently removed from the site within 6 months.

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<sup>4</sup> Department for Digital, Culture, Media and Sport published guidance April 2020

37. Any conditions would have to meet the statutory tests and be necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects as required by the Framework and the Planning Practice Guidance.
38. The enforcement notice has a compliance period of 4 months, but the notice would not have come into effect for 56 days (2 months). The Council explain that this was done purposely to give the appellants the 6 months they said they needed when the matter was being discussed between the parties.
39. In their Final Comments, submitted at the end of October, the appellants state that whilst 24 months would be the ideal time period for the planning permission, it is 'potentially feasible to achieve a replacement in 12-18 months.'
40. **The appellants'** Prior Approval for the replacement site was granted on 26 May 2020, which is almost 6 months ago. Unlike the usual suspension of time whilst an appeal is determined, I have no reason to believe that the appellant has not continued in the interim to progress the various necessary requirements and processes to get the replacement site operational, and which they say they have every intention of doing.
41. However, I concur with the Council that the existing 18 months granted for the temporary emergency installation and the 2 years wanted by the appellants would amount to over 3 and a half years for an inappropriate design of telecommunications mast being sited in a prominent location harming the character and appearance of the area and the setting of the designated Water Gardens. This is too long.
42. To that end, I consider a condition granting a 12 month time period meets what the appellants say would be feasible and strikes a proportionate and reasonable balance between the public benefits and the harm caused.

#### Conclusion

43. Overall I find there is harm to the character and appearance of the area, as well as to the setting of the Grade II Registered Water Gardens. Whilst therefore there would be policy conflict with Core Strategy Policies CS12 and CS27, I find the public benefits of retaining the temporary mast for a further 12 months to ensure continued network coverage and capacity until the replacement site is operational, outweighs both these harms.
44. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted with conditions.
45. The appeal on ground (g) - that the period specified for compliance with the notice falls short of what is reasonable - does not therefore need to be considered.

*K Stephens*

INSPECTOR



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# Appeal Decision

Site visit made on 7 August 2012

**by R W Moon BSc MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 12 November 2012**

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## **Appeal Ref: APP/C3430/A/12/2172974**

### **Oaktree Stables, Hatton Road, Cannock, Staffordshire, WS11 1RN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Vodafone Ltd/Telefonica O2 UK Ltd against the decision of South Staffordshire District Council.
  - The application Ref 11/00919/TEL, dated 17 November 2011, was refused by notice dated 9 January 2012.
  - The development proposed is 'the construction of a 12-metre high telecommunications installation with antennae above, dishes, associated equipment cabinets and development ancillary thereto'.
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## **Decision**

1. I allow the appeal and grant approval under the provisions of Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (as amended), in respect of development by a telecommunications code system operator for the construction of a 12 metre high lattice tower supporting three Vodaphone antennae, three Telefonica (O2) antennae, two dishes, and ground installations including a Vulcan enclosure, meter cabinet and development ancillary thereto at land at Oaktree Stables, Hatton Road, Cannock, Staffordshire, WS11 1RN in accordance with the terms of the application Ref 11/00919/TEL, dated 17 November 2011, and the plans submitted with it subject to the condition that:
  - 1) Prior to the installation of any antennae or dishes, the lattice mast shall be painted in a colour to be first agreed with the local planning authority and shall be maintained in that colour in perpetuity unless otherwise agreed in writing by the local planning authority.

## **Procedural Matter**

2. The description of the proposed development in the application form, the Council's Decision Notice and in the Planning Appeal Form (stated to have been agreed as a modification by the Appellants) all differ. I will determine this appeal on the basis of the following description: 'the construction of a 12 metre high lattice tower supporting three Vodaphone antennae, three Telefonica (O2) antennae, two dishes, and ground installations including a Vulcan enclosure, meter cabinet and development ancillary thereto'.
  3. I have also noted the claim by the joint submission by the Hatherton Parish Council and the Hatherton and Longford Residents' Group (PC & RG) that the
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Certificate B accompanying the application is not accurate as regards the land owner. This is not a matter for me and the Council has accepted the application as valid.

### **Main Issue**

4. 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.
5. I am satisfied that the Appellants have followed the agreed procedures to consult and prepare their application for approval. This includes the early approaches to the Council and local consultees and a thorough assessment of urban based options. They have demonstrated the need for the improved 3G service in the locality and researched alternative locations for their mast, having regard to both amenity judgements and the ability to obtain landowner agreement to such a proposal. One site put forward by the Council did not meet technical requirements and was itself in the Green Belt. These alternatives have been part of consultations with the Council and no disagreement about their unsuitability has arisen. That leaves as the main issue the effect of the proposed mast, in terms of its siting and external appearance, on the character and appearance of the locality.

### **Reasons**

#### *Effect on character and appearance*

6. The appellants have selected a lattice type mast, to be painted green, in order to minimise its reflectivity and therefore reduce its visual impact when seen against the mature trees to the north. The site is on the urban edge of the Green Belt where the growth of horse related activities and their associated structures and artificial field divisions have produced a landscape that is not without visual intrusions. The proposed siting of the mast would be behind the existing stabling and set close to high trees behind, albeit with some large gaps. The higher trees would have the effect of minimising the perception of its scale while the buildings would provide total screening for the proposed ground level installations. However when seen against the sky, as shown in some of the photographs provided by objectors, it would be more prominent.
7. The surrounding context is provided by the urban edge of Cannock to the east and some ribbon development extending to the north of the site along Sandy Lane with open countryside to the north-west, west and south. The hedgerow boundaries along Hatton Road and its junction with Poplar Lane have a few significant gaps from which views of the mast could be obtained. Similar views



would be available from some residential properties. Having walked the surrounding rights of way network, I found it hard to see positions from which the mast would be readily visible. Views from those to the north west, west and south are at some distance from the proposed site and from here any mast would be seen against the high trees or the urban backdrop of Cannock. I accept that some views may be different in winter months, as the objectors' photographs demonstrate, but I consider the screening effect of the boundaries would still be significant. My overall impression of the wider area is one where the field boundaries are sufficiently robust as a result of earth banks and/or hedging with trees to obscure many views of the proposed mast.

8. I accept that objectors are naturally concerned about their local countryside, and the Council about the need to protect the inner edge of the Green Belt, but for the reasons above I consider that the scheme would result in only moderate harm to the character and appearance of the area. In this respect, I accept that it would conflict with Local Plan policy BE26 which, amongst other things, requires development to be sympathetic to the character and appearance of the surrounding area. However, the same is likely to be true of any telecommunications infrastructure and the policy does not sit well with section 5 of the National Planning Policy Framework (NPPF), which supports high quality communications infrastructure.

*Other considerations*

9. It is clear from the maps provided, showing the areas where 3G services are deficient, that a considerable part of the built-up area of Cannock and an extensive part of the rural area to the north and west of the town is either without an adequate service or is not served by it at all.
10. It is Government policy that an advanced high quality communications infrastructure is essential for sustainable economic growth both for high speed broadband technology and other communication technology including multi-media applications and video telephony services. It is also accepted that the siting is more critical than for 2G services. The Government sets a high requirement for a strong, responsive and competitive economy to support growth and innovation in which new technology and the infrastructure to support it plays a very critical role. I attach considerable weight to this requirement.
11. The Council has relied on the argument that the search exercise does not mean that other more suitable sites do not exist. The only specific alternative location put forward by the owner of Hatherton Hall Farm to the north west of the appeal site would be too far away to satisfy the Appellants' needs to service the urban area to the east. Any other location to serve this area outside densely developed urban areas (which have already been considered and rejected) would be likely to be within the Green Belt where many of the same objections on loss of openness and visual intrusion would almost certainly arise. If it were not to be in the Green Belt it would quite likely come up against the added disadvantage of having to locate within the Cannock Chase AONB, the designated area of which lies just to the north of the site.

### **Other matters**

12. I have taken into account the many letters of objection, the objection from Gavin Williamson MP and the submissions on behalf of the PC and RG. These include a suggestion that previously developed sites along the A5 and an elevated section of the M6 are within the desired area of coverage and could more easily be assimilated into the landscape. However, no specific sites have been identified and the technical case to support this assertion has not been made.
13. Some objections have been made concerning potential health risks. In accordance with paragraph 46 of the NPPF, this is not a relevant consideration because the Appellants have certified that the scheme meets the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines.
14. No other matters raised are of sufficient weight to affect my conclusions in this appeal.

### **Overall Conclusions**

15. Although I have found that the scheme conflicts with policy BE26 of the Local Plan in terms of the effect of its siting or external appearance, I consider that other considerations, namely the economic and operational case put forward by the appellants and the objectives of national policy set out in the NPPF for supporting quality communications infrastructure, clearly indicate that the scheme should be permitted contrary to development plan policy. I conclude that the appeal should therefore succeed.

### **Conditions**

16. I consider that a condition requiring agreement of the precise colour of the mast is necessary to minimise its visual impact. Conditions regarding the time for commencement of the development and adherence to the submitted plans are not necessary as these matters are covered in the relevant provisions of the Town and Country Planning (General Permitted Development) Order 1995.

*R W Moon*

INSPECTOR

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## Appeal Decision

Site visit made on 12 January 2017

**by M Seaton BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 February 2017**

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**Appeal Ref: APP/E5330/W/16/3159250**

**Land in Footpath of Brewery Road at Junction of Piedmont Road, Plumstead, London SE18 1TE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015.
  - The appeal is made by CTIL, Vodafone Ltd and Telefonica UK Ltd. against the decision of Royal Borough of Greenwich.
  - The application Ref 16/1866/T3, dated 23 May 2016, was refused by notice dated 18 July 2016.
  - The development proposed is the installation of a 10m telecommunications monopole and 1no. equipment cabinet.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, for the installation of a 10m telecommunications monopole and 1no. equipment cabinet on Land in the Footpath of Brewery Road at Junction of Piedmont Road, Plumstead, London SE18 1TE, in accordance with the terms of the application Ref 16/1866/T3, dated 23 May 2016, subject to the following condition:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 100 Rev. A, 201 Rev. C, and 301 Rev. D.

### Main Issues

2. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the street scene and the area, and the living conditions of the residents of neighbouring properties, having regard to their outlook, and whether any harm caused is outweighed by the need to site the installation in the location proposed.

### Reasons

3. The appeal site lies at the junction between Brewery Road and Piedmont Road on a comparatively wide section of pavement. The surrounding area is predominantly residential in character and the site is set adjacent to a parcel of land accommodating rows of garages behind a palisade fence. An existing electricity sub-station is also located in close proximity. Approval is sought for the siting and appearance of a telecommunications monopole, comprising a 10 metre high replica telegraph pole style column for use by Vodafone and
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- Telefonica, and a new equipment cabinet to be located to the rear of the pavement adjacent to the palisade fence.
4. The National Planning Policy Framework 2012 (the Framework) advises that a high-quality communications infrastructure is essential for sustainable economic growth, and that the expansion of electronic communications networks, including telecommunications should be supported. However, the Framework also advises that the aim should be to keep the numbers of telecommunications masts and the sites for such installations to the minimum consistent with the efficient operation of the network. In this respect, I am satisfied that the proposed mast, in hosting both Telefonica and Vodafone, would negate the potential for a further additional mast in the vicinity to achieve the same technical coverage. This weighs strongly in favour of the location.
  5. The Council has highlighted that in accordance with its assessment against the prior notification procedure set out at Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO), the principle of the proposal would be acceptable given the overall height of the proposed monopole and the dimensions of the equipment cabinet. However, in accordance with the GPDO, it is still necessary to assess the proposals against the relevant Development Plan policies and other material considerations in terms of siting and appearance.
  6. On the basis of the submissions before me, the **Council's chief concern** relates to the resultant visual clutter that would arise from the proposal in this location, and the overall prominence of the location. In this respect, I would not disagree with the Council that the addition of the telegraph pole style monopole and equipment cabinet would contribute some additional visual clutter in the area, and that the monopole would be within a comparatively prominent location at the junction. However, I observed the area around the site to not be without other prominent vertical features including street lights, telegraph poles, and mature street trees, and in this respect I do not consider that the addition of the monopole would result in an unacceptable level of visual clutter. Whilst I accept that the height of the column would exceed that of nearby street lights and telegraph poles, I do not consider that, despite its location at the junction or indeed the overall dimensions of the monopole in contrast to other nearby features, this would result in an unacceptably obtrusive or prominent addition within the street scene.
  7. In respect of the equipment cabinet, I note that it would be set towards the back of the pavement and would be viewed in the context of a backdrop of the existing adjacent palisade fence. Whilst I observed that it would also be located within close proximity to existing BT equipment, I am satisfied that any overall cluttering effect would not be significant due to its location. As a consequence, I am not persuaded that the overall visual impact of the proposal would be so injurious as to result in an unacceptable degree of harm to the overall character and appearance of the street scene or the area.
  8. I have also had regard to the concern expressed within the reason for refusal that there would be a significant impact on the outlook of neighbouring occupiers. The Council has not expanded upon this point within their analysis of the proposals, and I note that the summary of local resident responses refers only to the loss of a view of the surroundings rather than outlook. However,

whilst accepting that the loss of a view is not a material planning consideration in this instance, I am satisfied that whilst the proposed monopole and equipment cabinet would be clearly visible from various surrounding properties, the location and separation from surrounding properties combined with the dimensions of the monopole and cabinet, would not result in an unacceptable impact on living conditions having regard to outlook.

9. Interested parties have raised concerns about the potential health effects of the installation, particularly in respect of the proximity to schools, and whether sufficient exploration of alternative sites has been undertaken. I am satisfied that these concerns are legitimate material considerations, but I am mindful that the appellant confirms that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something for decision-makers to determine, and no evidence has been adduced of sufficient authority to justify setting aside this advice. **With regards alternative sites, I have noted the appellant's submissions within the supplementary information, but I am mindful that even if alternative sites were available, there is no requirement within the Framework or the GPDO for developers to select the best feasible siting.**
10. I have identified that the improvement in coverage and the proposed mast-sharing arrangement would weigh strongly in favour of the proposal in this location. Furthermore, I have concluded that the effect of the proposed installation on the character and appearance of the street scene and area, and on the living conditions of residents of the neighbouring properties, having regard to their outlook, would be acceptable. The proposal would therefore accord with Policies DH1 and DH(c) of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies, adopted 2014 (the Core Strategy), and Policy 7.4 of the London Plan: The Spatial Development Strategy for London Consolidated with Alterations since 2011, adopted 2015 (the London Plan). These policies seek to ensure that telecommunications development has due regard to the character and appearance of its location and the design of proposals to minimise visual impact on its setting and local environment, and that any proposal meets ICNIRP guidelines for public exposure. The proposals would also accord with the more specific guidance within the Framework.

### **Other Matter**

11. I have had regard to the various other comments and concerns from interested parties. With regards the impact on health & safety from the reduction of the width of the pavement, I note that both the monopole and equipment cabinet would be located on the fringes of the main pedestrian pavement, and I am satisfied that their locations would not result in any undue encumbrance to users of the pavement.
12. In addition, concerns including the impact of the proposed development in respect of fly-tipping and rubbish, incidences of anti-social behaviour, the loss of value of existing properties, and that as a consequence it would be harder to sell and rent property, have been cited. However, in these respects, I note that the Council has not identified any of these matters in its reason for refusal, and I have not seen any evidence that the proposed monopole would result in these impacts occurring.

### **Conditions**

13. The Council has not suggested any conditions. However, beyond the standard conditions which are imposed by the Town and Country Planning (General Permitted Development) Order 2015, I have added a condition related to the identification of plans, which I consider necessary to provide certainty and clarity in respect of the proposed development.

### **Conclusion**

14. For the reasons given above and subject to the condition, the siting and appearance of the proposal would accord with Policies DH1 and DH(c) of the Core Strategy and Policy 7.4 of the London Plan, and the appeal is therefore allowed.

*M Seaton*

INSPECTOR



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## Appeal Decisions

Site visit made on 5 August 2020

by Chris Hoult BA(Hons) BPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 September 2020

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Appeal Ref: APP/X5210/C/20/3244837 (Appeal A)  
Southfleet, Malden Road, London NW5 4DD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as **amended by the Planning and Compensation Act 1991 ("the 1990 Act")**.
  - The appeal is made by Cornerstone against an enforcement notice issued by the Council of the London Borough of Camden.
  - The enforcement notice, numbered EN18/0080, was issued on 4 December 2019.
  - The breach of planning control as alleged in the notice is the installation of communications antennae with associated fixings and cabling on the roof of the residential building as shown on Plan 1 attached to this notice.
  - The requirements of the notice are: (1) completely remove the communications antennae along with associated cabling from the roof of the building as shown on Plan 1; (2) make good the roof following completion of the above works.
  - The period for compliance with the requirements is 2 months.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (b), (c), (f) and (g) of the 1990 Act.
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Appeal Ref: APP/X5210/W/20/3254104 (Appeal B)  
Southfleet, Belsize Park, Camden, London NW5 4DH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Cornerstone and Telefonica UK Ltd and Vodafone Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2020/0147/P, dated 20 December 2019, was refused by notice dated 17 April 2020.
  - **The development proposed is described as "removal of 6 No. antennas, installation of 12 No. upgraded antennas, 2 No. 600mm satellite dish, 1 No. 600mm dish (*sic*), and 6 No. equipment cabinets all behind proposed GRP shroud on building rooftop plus ancillary works"**.
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Decision (Appeal A)

1. The appeal is allowed and the enforcement notice is quashed.

Decision (Appeal B)

2. The appeal is allowed and planning permission is granted for the removal of 6 No. antennas and installation of 12 No. upgraded antennas, 2 No. 600mm satellite dish, 1 No. 300mm dish and 5 No. equipment cabinets plus relocation of 1 No. equipment cabinet all behind a proposed GRP shroud on the building rooftop plus ancillary works at Southfleet, Malden Road, London NW5 4DD in accordance with the terms of the application, Ref 2020/0147/P, dated 20 December 2019, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Lease Drawing (ref. 101 Issue A); Proposed Site Plan (ref. 201 Issue A); Proposed Site Elevation (North East)(ref. 301 Issue A); Proposed East Elevation (ref. 302 Issue E); Proposed West Elevation (ref. 304 Issue D); Proposed South East Elevation (ref. 306 Issue D); TEF Antenna Plan (Proposed) (ref. 400 Issue A); VF Antenna Plan (ref. 401 Issue A); and Equipment Layout Plan (ref. 402 Issue A).
- 3) The development hereby permitted shall be fully enclosed within a glass-reinforced plastic (GRP) shroud, as outlined in drawing ref. 402 Issue A, the details of which shall have been submitted for the written approval of the local planning authority prior to the installation of the equipment hereby permitted.
- 4) The equipment and shroud hereby permitted shall be removed from the building at such time as it is no longer required for electronic communications purposes and the building shall be restored to its condition before the development took place or to any other condition as may be agreed in writing with the local planning authority in accordance with a timetable that shall have been agreed in writing with the local planning authority.

#### Appeal A – Preliminary Matters

3. **The appellants explain that the development enforced against is an “interim” installation of telecoms equipment pending the installation of a wider range of equipment that is the subject of Appeal B. It was installed in the belief that it benefitted from permitted development rights. Plans accompanying this appeal show the equipment already installed as “existing” and the wider range of equipment as “proposed”.**

#### Appeal A – Matters Concerning The Notice

4. **The notice alleges the installation of “communications antennae” without specifying in any more detail what these comprise. A reference to “Plan 1” in the allegation is to a plan which identifies the location of the equipment but not the details. The planning officer’s report refers to a total of six antennae**, with various associated cabling and fixings, arranged in three sets of two facing broadly NE, SE and W. These arrangements conform to what I saw on my visit but there were also three sets of three tall poles placed alongside the antennae. From my observations and reading the plans, I have taken them to be the mountings for the further antennae which it is proposed to install. For purposes of the notice, I have taken them to be a constituent part of the **“antennae along with associated fixings and cabling”**, part therefore of the alleged breach and falling within the scope of its requirements.

#### Appeal B – Preliminary Matters

5. The site address for the appeal is as on the application form. However, in my decision, I use the more accurate address as shown on the heading for Appeal A including the postcode.



6. The details of the proposal are as set out in the above heading. However, on reading the evidence, it is clear that **the reference to "1 No. 600mm dish"** is a misprint and should **read "1 No. 300mm dish"**. This is reflected in the wording of my decision. The appellants also point out that the reference to **"installation...of 6 No. equipment cabinets"** should more accurately read **"installation...of 5 No. equipment cabinets and relocation of 1 No. equipment cabinet"** and this is also reflected in the wording of my decision.
7. The evidence submitted by the appellants relates both to the apparatus already installed and to the proposed additional apparatus and needs to be read as a whole across both appeals. This is especially so in the case of plans. Plans are submitted in support of the appeals on grounds (a), (b) and (c) of Appeal A and are also separately submitted as **Appendix 2 of the appellants' appeal** statement for that appeal. A further set of plans is submitted in respect of this appeal. Some plans show the proposed layout without the GRP enclosure while others include it. It would appear that some plans supersede others.
8. The most up-to-date version of the plans appears to be those submitted as Appendix 2 of Appeal A. The proposed site plan matches that submitted as an application plan in respect of Appeal B while other plans show the layout of the equipment in greater detail, based on that plan. These appear to supersede the **"proposed" plans submitted** in the appeals on grounds (a), (b) and (c) of Appeal A. It is unclear whether, at the application stage, the Council considered these more detailed layout plans. Nevertheless, they do not appear to amend the proposal and the Council has been able to consider them in so far as they form part of the plans relating to the appeal against its notice (Appeal A). I therefore take them in to account in dealing with this appeal.

#### Appeal A – Ground (b) and (c) Appeals

9. I deal with the **appeals on these grounds together as the appellants' case is the same** in relation to each of them. The appellants are of the view that the installation constitutes permitted development. In my view that relates to an appeal on ground (c), that the matters enforced against (the installation of the antennae) do not constitute a breach of planning control. It is plain that the antennae have been installed as a matter of fact.
10. It is necessary to examine the provisions of the up-to-date consolidated Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("**the GPDO**"). **Class A of Part 16 of Schedule 2 defines what may be described as permitted development for electronic communications code operators as granted under Article 3(1) of the Order.** The appellant company, which is a joint venture company between Vodafone Ltd and Telefonica UK Ltd, is a code operator for purposes of the GPDO.
11. The equipment is mounted on a building and the appellant explains that it falls within the limitations set out in A.1 as regards its height relative to the height of the building, the number of antennae and code operators and the purpose and cumulative volume of its housing. In terms of its dimensions, no other potential conflict with or exceedance of the conditions and limitations of this Class is identified. The issue between the parties concerns: (a) the condition set out at A.2(1)(a) that **"the effect of the development on the external appearance of the building is minimised, so far as is practicable..."**; and (b) whether the development falls within the scope of conditions A.2(3) and A.3(4) as regards a prior requirement for **"a determination as to whether the prior**

*approval of the [local planning] authority will be required as to the siting and appearance of the development”.* My reasoning focuses on these provisions.

12. **My understanding of the Council’s case is as follows. The Council argues that** the antennae have not been installed so as to minimise their effect on the external appearance of the building, so far as is practicable. A prior approval application should have been submitted prior to their installation to establish matters of siting and appearance, to demonstrate that requirement, and this has not been done. Therefore, permitted development rights do not apply.
13. **If that is so, the Council’s reasoning is in my view misplaced. It refers to** conditions A.2(1)(a) and A.3(3). I note in passing that the reference to A.3(3) is incorrect as that concerns a requirement to consult the Civil Aviation Authority in the event of development in the vicinity of an aerodrome. However, even had the Council referred to the correct condition, A.3(4), **its reasoning is still misplaced as that refers back to “development described in paragraph A.2(3)”.** It is necessary therefore to ask whether the installation falls within the scope of that paragraph.
14. The condition concerns Class A development in various circumstances. The installation is not on Article 2(3) land nor is it within a Site of Special Scientific Interest. **Paragraph 3(c) refers to “unprotected land” but concerns masts,** public call boxes and radio equipment housing, not antennae. A radio equipment cabinet is included in the installation but this is ancillary to its primary element, which comprises the six antennae. Since the installation is not therefore development to which A.3(2) applies, there is no requirement for it to be the subject of a prior approval application.
15. Accordingly, the lack of a prior approval application does not invalidate permitted development rights. Put another way, the Council cannot argue, because a prior approval application was not submitted, the appellants cannot for that reason benefit from permitted development rights. Nevertheless, the Council could still maintain that it has not been demonstrated in some other **way that the apparatus’s effect on the external appearance of the building has** not been minimised. I turn to the evidence in relation to this requirement.
16. I should start by drawing attention to the qualification that that should be **“as far as is practicable”.** It is plain from the evidence that alternative siting and positioning of the antennae were the subject of discussions between the parties. These are referred to by the appellants in relation to this appeal and **are also detailed in the appellants’** evidence for Appeal B. I have sympathy with **the appellants’ view that** it should be for the Council to demonstrate a failure to meet this requirement, since it has taken unilateral action to issue a notice. This is all the more so as, for the reasons given, I am of the view that the development did not need to be the subject of a prior approval application.
17. Nevertheless, the appellants go on to assess the functional requirements of the apparatus, with regard to the available space and the focus of the demand for mobile phone coverage in the locality. I find their arguments about the height of the apparatus relative to the height of the building unhelpful. They have chosen as a reference point the access tower at the junction of Malden Road and Marsden Street which is somewhat distant from its location and does not read together with it. That said, the overall scale of the building is such that accommodating antennae at a height of 4.28m above the roofline should be

possible without them necessarily appearing visually dominant. That height is the minimum, the appellants say, that allows compliance with ICNIRP<sup>1</sup>.

18. The appellants go on to assess a number of options for reducing the visual impact of the antennae – reduction in height; mounting them horizontally; setting them back from the front edge of the roof; tilting the antennae away from the road frontage; spacing them more evenly along the roof; and moving **them down to the building's front elevation and painting them to match the colour of the brickwork**. In all these cases, there are impracticalities that render them unrealistic as options to pursue. Under the ground (f) appeal, they explore the option of encasing the antennae in glass-reinforced plastic in the event that I find against them on both the ground (c) and ground (a) appeals. That has now become a key component of the proposal subject of Appeal B.
19. For its part, the Council refers to discussions held with the appellants which examined the options referred to above. It is not clear from their evidence when this was but my reading of it is that it was after the apparatus was **installed but before the notice was issued. The Council's account** of these discussions was that the appellants were unwilling to implement any part of them, other than a minor reduction in height. Nevertheless, and whether or not the practicalities of the various options formed part of the discussions, it seems to me **that they have been persuasively rehearsed in the appellants' evidence. The discussions are referenced in the Council's comments on the ground (a) appeal**. In its comments on the ground (c) appeal, the Council does not **address the "as far as is practical"** qualification that must apply to any consideration of alternatives as regards siting and appearance.
20. The Council refers me to the Crown House appeal decision<sup>2</sup>. I refer to it in the context of the appeal on this ground because it refers to a search of alternative sites. However, while that is undeniably a matter for consideration in any ground (a) or s78 appeal, it is misplaced in the context of the appeal on this ground. The GPDO confers development rights for telecoms apparatus on buildings by reference to measurable factors such as size, height etc. While the additional **"as far as is practical"** filter requires a more qualitative judgement, if the relevant criteria are met, those rights must apply. For purposes of condition A.2(1)(a), it is not necessary to demonstrate a lack of harm, merely, that any harmful effects are minimised so far as is practical. Whether the apparatus could be sited less harmfully on another building or site is not relevant to these considerations.
21. Accordingly, and for the reasons given above, I conclude that the appeal should succeed on ground (c). The enforcement notice will be quashed. In these circumstances the appeals on grounds (a), (f) and (g) as set out in s174(2) of the 1990 Act, and the application for planning permission deemed to have been made under s177(5) of the 1990 Act, do not need to be considered.

## Appeal B – Background and Main Issues

22. The proposal comprises a grouping of six sets of two antennae positioned broadly in groups of three sets each along the front-facing and rear-facing parts of the roof, together with two satellite dishes located alongside the front-

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<sup>1</sup> International Commission on Non-Ionizing Radiation Protection – see footnote 8 to the appellants' final comments document for Appeal A

<sup>2</sup> Appeal decisions refs. APP/X5210/C/18/3199851 and APP/X5210/C/18/3201008 – Land at Crown House, 265-267 Kentish Town Road, London NW5 2TP

facing antennae and various cabinets and other ancillary apparatus. It is proposed to screen the whole assembly on all four sides within a single glass-reinforced plastic (GRP) enclosure which will have the appearance of a box measuring around 7m x 7m x 4.9m in height. The appellants explain that GRP can be manufactured to mimic a range of materials such as brickwork and give examples of its use to replicate, for example, chimney stacks in either brick or stone. In appearance the enclosure could mimic that of the towers at the junction of Malden Road and Marsden Street **and at the building's northern end.**

23. The building has long elevations to both Marsden Street and Malden Road. The apparatus would be located on its roof on the Malden Road frontage just north of the junction with Rhyl Street. It would be a prominent feature in views from within the complex, from the internal courtyard. **However, the Council's main concerns are about public views along Malden Road. The facing houses on that road are within the designated West Kentish Town Conservation Area ("the CA") and Rhyl Street extends to the east within the CA.**
24. In the light of this, the main issues are: (a) the effect of the proposal on the character and appearance of the area; (b) whether the proposal would preserve or enhance the character or appearance of the CA; and (c) whether any harm identified is outweighed by the public benefits of the proposal.

#### *Character and appearance*

25. Southfleet is a housing complex of substantial scale. Roughly V-shaped, the blocks of up to seven storeys in height fronting Marsden Street and Malden Road enclose an internal courtyard, parking area and community space, with further subsidiary blocks and rows of low-rise housing. Its architecture is self-consciously modern and austere, in dark-coloured blue brickwork, with references to Brutalist design, such as in the lift tower, raised walkways connecting different blocks, large expanses of brickwork and projecting balconies to the Malden Road frontage.
26. I noted on my visit that, while the elevation to Marsden Street steps back in the upper storeys, contrastingly, on the Malden Road frontage, the upper levels increasingly project forwards as the building gains in height. On that frontage, there is a discernible rhythm to the pattern of the fenestration and arrangement of projecting walls and balconies, and accompanying recesses. The overall impression gained, however, is of a more random distribution of features, drawing the eye in and adding visual interest. However, the increasing projection of the dwelling units and associated balconies heightens their visual presence and climaxes at the roofline, rendering it a prominent and irregular skyline feature in views from street level.
27. The scale and severity of the building makes it a visually arresting and dominant feature along Malden Road but the effect is softened considerably by the presence of mature trees which have been planted within the ground-level front gardens, or else have been incorporated in their design. In views along Malden Road, **these provide a strong filter to views of the building's frontage** when the trees are in leaf, as they were at the time of my visit, although that effect would be less marked in winter. There are however significant gaps between trees that allow for a more full-on view and appreciation of the **building's** presence in the street scene. The access tower has been designed to **be a landmark feature at the apex of the "V"** but a lack of maintenance of elements of its fabric at an upper level detract from its appearance.

28. The antennae currently in place are a prominent skyline feature above roof level as viewed across a significant gap in the trees looking SW along Malden Road and are particularly prominent in views from along Rhyl Street, which I deal with in more detail in relation to the second main issue. Where they are viewed in association with the trees, they are just visible above the tree canopies and do not register so prominently, although their prominence would increase in the absence of leaves in the winter. At present, unenclosed, they are of a lightweight appearance but undoubtedly add visual clutter to the roofscape, which would significantly increase under the proposals.
29. That said, on closer inspection of the upper parts of the building, it is evident that there already is in place maintenance equipment and other paraphernalia. This takes the form, mainly, of a handrail which runs along the whole of the **building's length** but I also observed on occasion safety grilles to maintenance ladders. On the Marsden Street frontage, these features are more apparent and are viewed along with a plethora of satellite dishes associated with the residential units themselves. There is therefore some degree of visual clutter already in place lending to the building a more utilitarian appearance than initial impressions might convey.
30. The proposed enclosure would be an altogether more substantial structure and would plainly be visible, looking SW, as a prominent skyline feature. In my view, it has the potential to appear top-heavy and incongruous. It would mimic the access tower and a similar less prominent plant tower at the northern end of the Malden Road frontage. However, they are largely free-standing elements of the overall complex, recognisably functional in form. In spite of that, it would not be uncommon for a tall building to have items of enclosed services equipment on its roof. I accept that the GRP enclosure could match the appearance of the **building's** brickwork and simplify the arrangements. It would avoid undue visual clutter and be of simple angular form, blending with and as part of the current roofline, its towers and projections. In long views of the frontage, it would read together and along with the towers to north and south.
31. Accordingly, I conclude that, whereas the proposal has the potential to harm the character and appearance of the area by virtue of an appearance of visual clutter at roof level, that can be successfully minimised and mitigated by the proposed GRP enclosure. In the light of this, I conclude that no harm would arise on the first main issue I have identified. The Council cites Policy D1 of the Camden Local Plan 2017, which is a general policy promoting high-quality design – the proposal would comply with points (a), (e) and (m) in particular.
32. I am referred also to chapters 2 and 5 of the Camden Planning Guidance Supplementary Planning Document. While they contain useful general guidance in relation to design and roof extensions to residential buildings, there is little specifically regarding the challenges posed by telecoms equipment, other than a brief reference to building services equipment whose siting, it is said, should be considered as part of the overall design. It seems to me that the appellants have sought to comply with this requirement. No other policies or guidance are referred to. Paragraphs 112-116 of the National Planning Policy Framework (**"the NPPF"**) deal with telecoms development. Paragraph 113 favours the use of existing buildings for new telecoms capability and says that equipment should be sympathetically designed and camouflaged where appropriate and I consider that the appellants have sought to meet this requirement.

*Effect on CA*

33. The CA comprises the sequence of mainly quiet residential streets running east of Malden Road, which include the continuation of Marsden Street and Rhyl Street, on which is located the prominent and imposing traditional school building of Rhyl Primary School. It is characterised by terraces of mid-19thC dwellings in a late Georgian style. It is for the most part a neighbourhood on an intimate scale and views of the appeal site frontage to Malden Road, including the currently installed apparatus, can be obtained from a lengthy stretch of Rhyl Street, including outside the school. These are views out of the CA, of features which have the potential to affect the character of the CA.
34. I observed on my visit that the apparatus is a notably prominent feature at skyline level in these views. Given that it is a long view at distance, it is readily visible above the trees even when in leaf. The appellants have assessed the impact on the CA and a photograph of the view of the site from Rhyl Street is included in their evidence at Figure 15 of their appeal statement for this appeal. The Google Earth image of the view does not reflect the impact as I saw it, largely owing to the wide-angle lens used, which significantly downplays background features. That said, it is evident from this photograph that the trees play no part in screening or filtering views of it. Viewed from along this street, the top-heavy appearance of the enclosure, sitting above the projections and recesses of the main part of the elevation, would be apparent.
35. I acknowledge that the **building's modernity would be evident** in these views and that the enclosure would be designed to appear as part of it and to blend in with its overall fabric and I bear in mind its height relative to the overall height of the building. Nevertheless, it would not be viewed in conjunction with **the building's other** two tall features, given that it is a view of only a relatively narrow section of the Malden Road frontage and so it would register as a **"standalone" feature. In my view, its sheer presence as a bulky skyline feature in these views, which are views from within the CA, would render it an intrusive element of the CA's setting** and impact unduly on its quiet residential character. For these reasons, I conclude that it would cause harm to the aim of preserving its character. It would fail to accord with criterion (e) of Local Plan Policy D2 as development which fails to comply with this requirement.

*Public benefits*

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 Vodafone 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. The appellants have considered a range of options for minimising the visual presence of the antennae on the building. In their evidence, they give details of a number of alternative sites on which to site the equipment and which were considered, and the reasons why they were discounted. These assessments are not challenged by the Council **and I have no reason to disagree with the appellants' findings.**
40. As regards the Crown House appeals, these concerned unenclosed antennae on the roof of a commercial building, with which a more direct comparison with the presently installed apparatus could be made. However, the Council accords weight to them as decisions made for similar development in a similar policy context. That said, there were, as I observed, significant differences in the circumstances of that building and those of Southfleet. The latter is on an altogether larger scale and is set back behind sizeable front gardens and mature trees. Crown House by contrast is a more modest three-storey building located at the back edge of the footway in a busy town centre setting, upon which the antennae as proposed, with no intervening vegetation, would have had an appreciably more dominant presence in the street scene. Accordingly, in the circumstances of the appeal site, I give little weight to these decisions.

#### Other matters

41. Both appeals have attracted third party representations. For the most part, they raise general objection to both the antennae as installed and as proposed, raising issues which I have dealt with in my reasoning. Health concerns are also raised briefly, but no detailed or specific comments are made. The proposals are ICNIRP compliant and the relevant certification requirements have been met. In the circumstances, the NPPF advises that health safeguards are not something which a decision-maker should determine.

## Conclusions

42. Accordingly, for the reasons given above, I conclude that the appeal should be allowed.

## Conditions

43. Neither party has furnished me with conditions which I might impose should I be minded to allow either the ground (a) appeal for Appeal A or Appeal B. Aside from the statutory standard time condition, I consider it necessary and reasonable to impose three conditions. A plans condition is required in the interests of clarity and precision and I base the approved plans on those submitted as Appendix 2 of Appeal A, for the reasons set out in paragraphs 7 and 8 above. I include those plans showing the proposed E, W and SE elevations for completeness even though they do not show the proposed GRP enclosure. It is nevertheless also necessary to require that the equipment be enclosed in a GRP shroud, whose details should be agreed with the Council, to give effect to that aspect of the development.
44. Given the visibility of the development, and its effect on the character of the CA, I also impose a requirement that it be removed from the building when no longer required for operational purposes. I follow the wording of the standard condition in the GPDO relating to this requirement as applied to Part 16 Class A development, with modification in so far as I require a timetable for removal to **be the subject of the Council's prior approval**, in the interests of clarity.

*C M Hoult*

INSPECTOR





# PHOTOMONTAGE PACK

Gateway Centre Garages  
Whitegate Close  
Staithes  
North Yorkshire  
TS13 5BB

**CTIL 205715 | TEF 075453**





**Image 1a**  
Existing view from Cowbar Lane looking South East.



**Image 1b**  
Proposed view from Cowbar Lane looking South East.



**Image 2a**

Existing view from the A174 looking North East.



**Image 2b**

Proposed view from the A174 looking North East.



Image 3a

est.



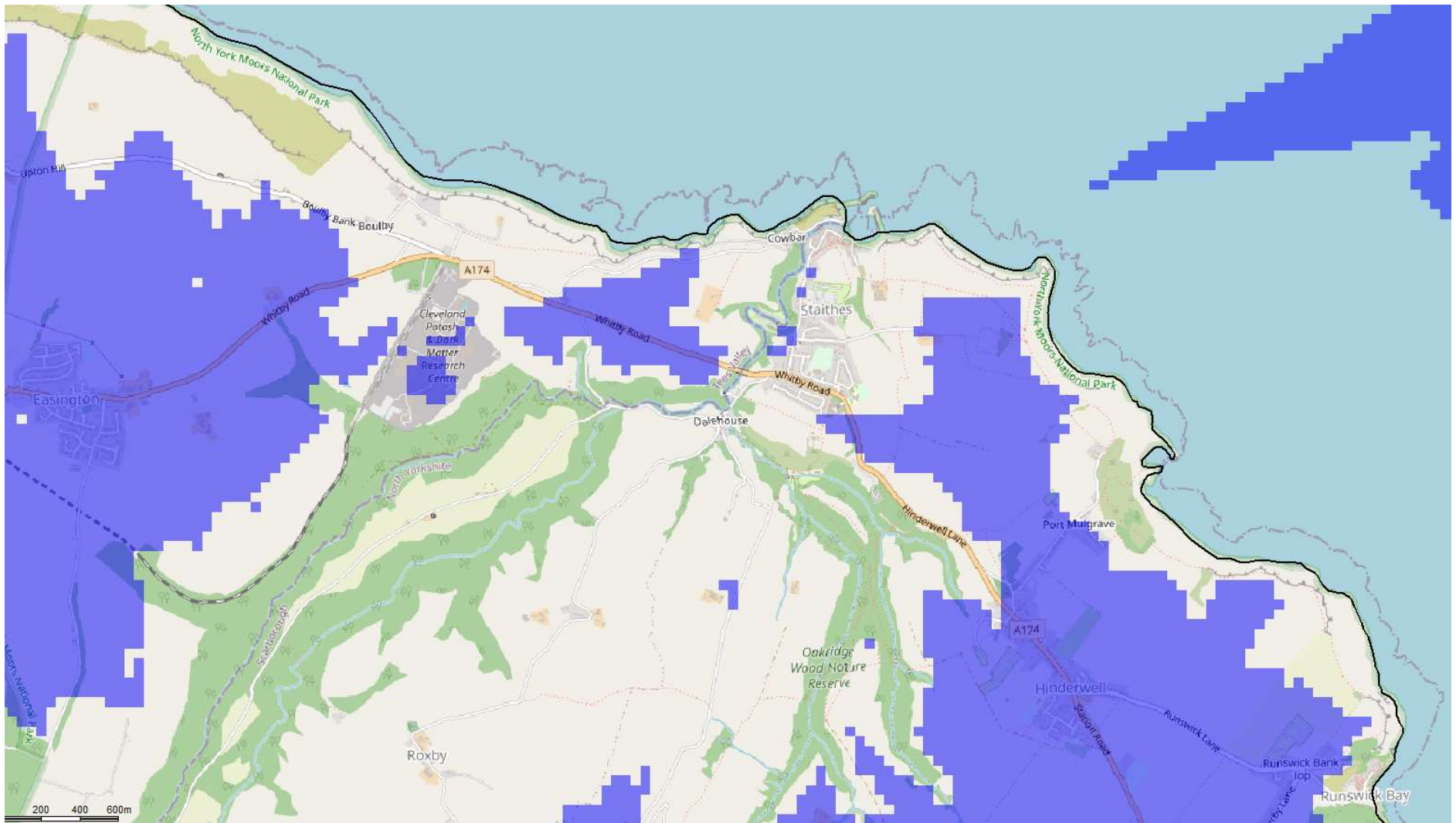
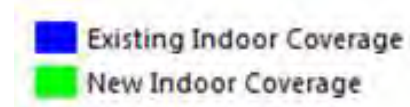
Image 3b

est.

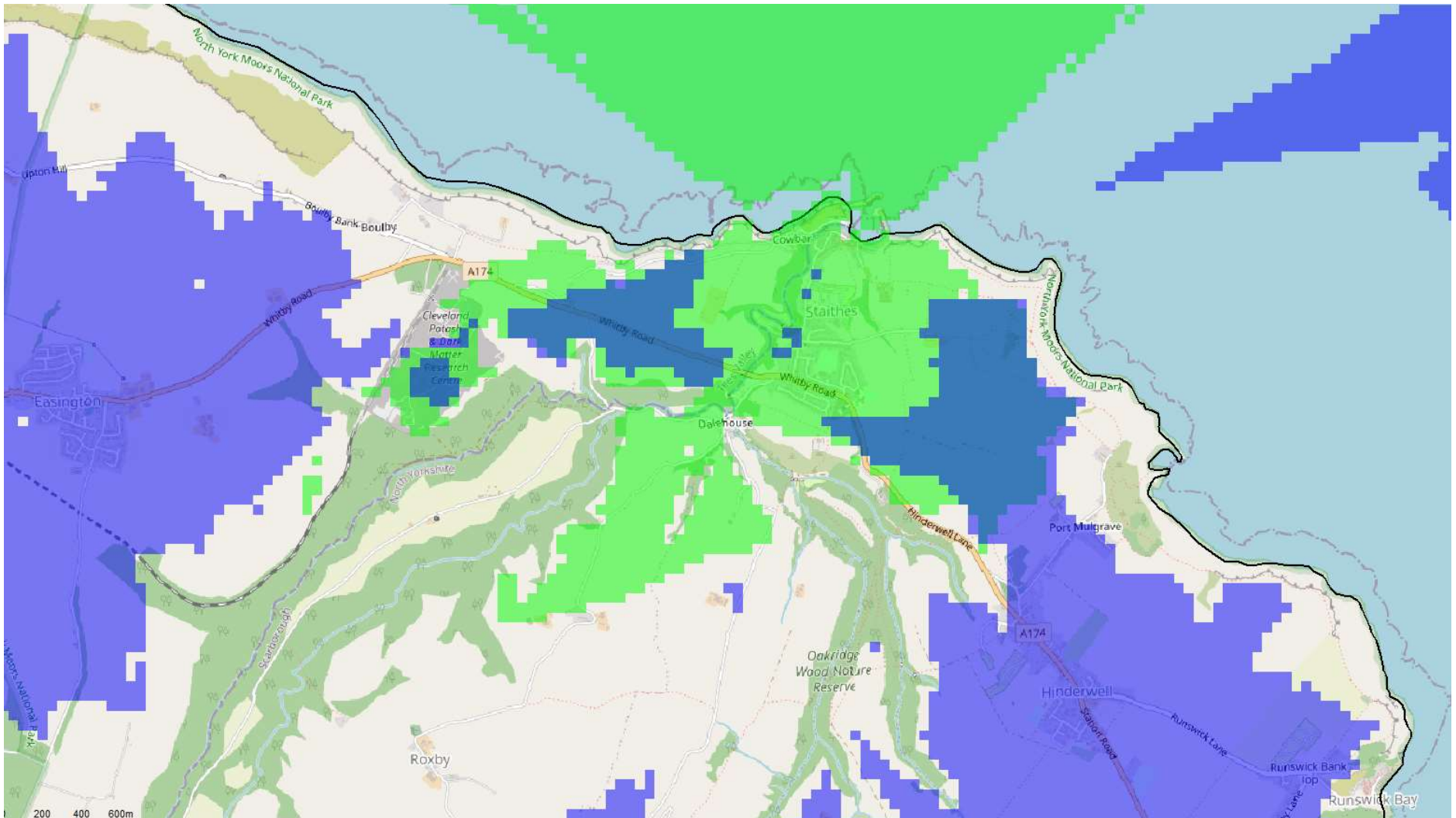
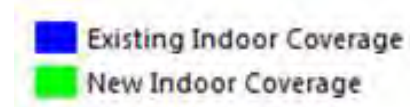


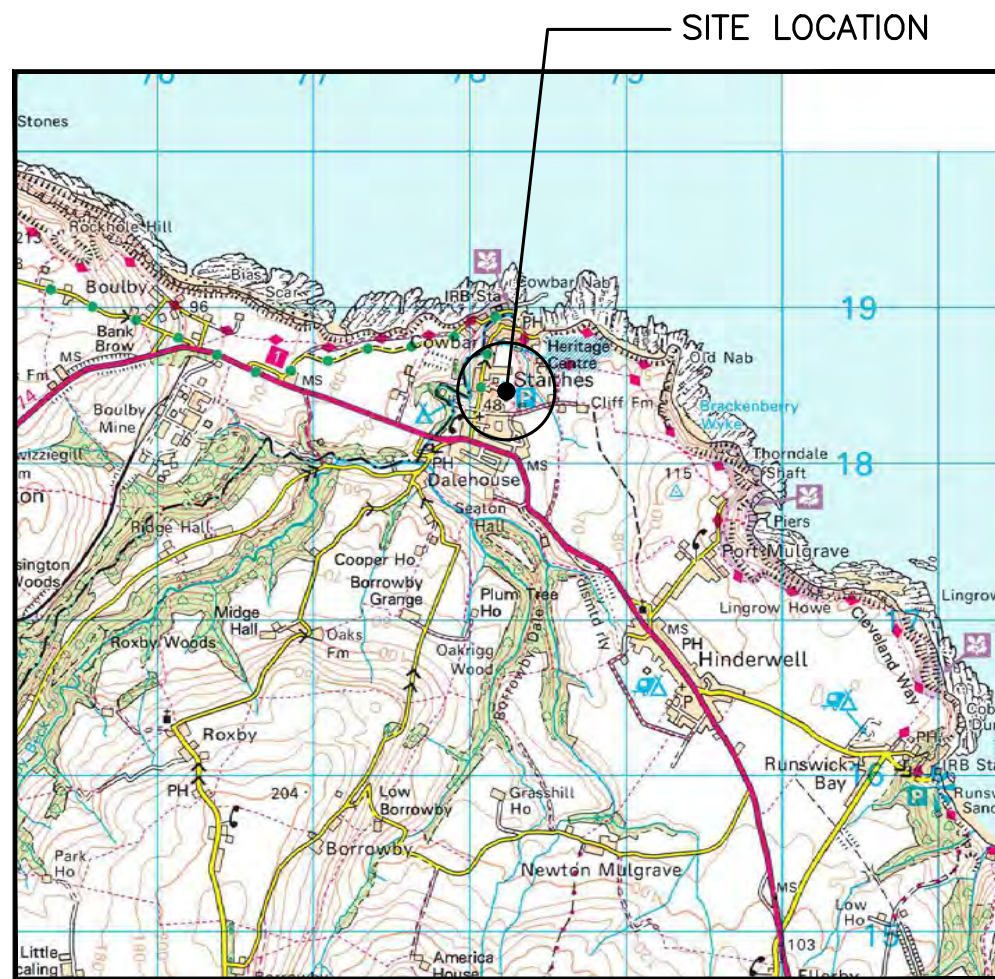
# CSR 75453 – Staithe Coverage Plots for Planning Application use only

# Existing 4G Coverage

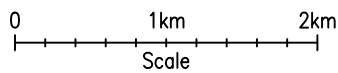
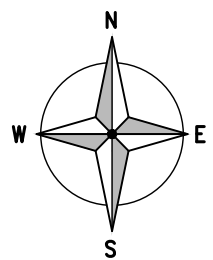


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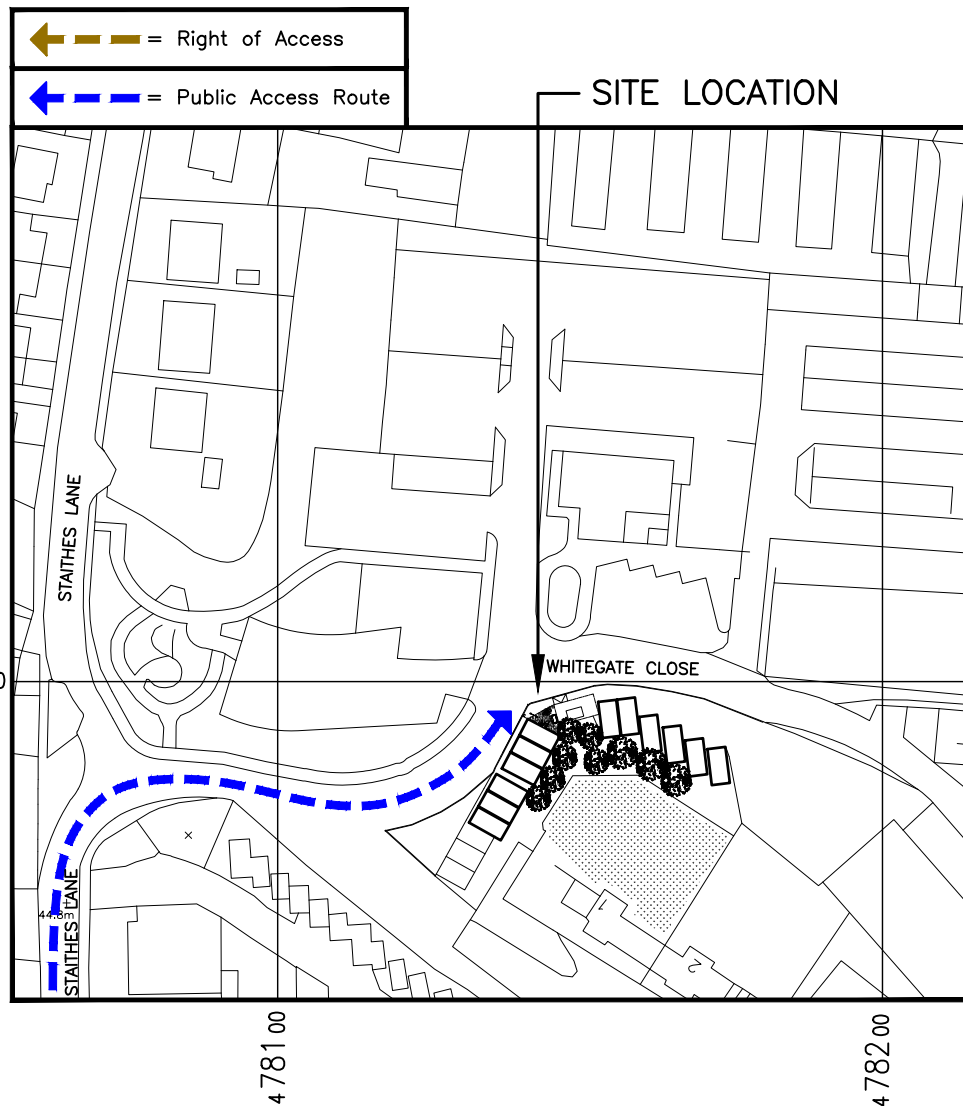


SITE LOCATION



SITE LOCATION  
(Scale 1:50000)

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SITE LOCATION

DETAILED SITE LOCATION  
(Scale 1:1250)

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NYMNPA

09/06/2022



SITE PHOTOGRAPH

ALL DIMENSIONS ARE IN mm UNLESS NOTED OTHERWISE

N.G.R | E: 478141 N: 518497

DIRECTIONS TO SITE:

HEADING NORTH ALONG A1(M) COME OFF AT J49 AND FOLLOW A168, A19 & A172 (FOR APPROX. 30m) AT THE ROUNDABOUT TAKE 5th EXIT AND FOLLOW A1043, AT 2nd ROUNDABOUT TAKE 3rd EXIT AND FOLLOW A171. AT 3rd ROUNDABOUT TAKE 1st EXIT AND FOLLOW A174 TO STAITHES. TAKE THE 1st LEFT AT STAITHES AND FOLLOW STAITHES LANE, FOLLOW THE ROAD AND AT SHARP RIGHT IT TURNS INTO WHITEGATE CLOSE FOLLOW AROUND THE SITE IS ON THE RIGHT BEFORE THE CAR PARK ENTRANCE ON THE LEFT.

NOTES:

A	Issued for Approval	DP	DW	10.03.22
REV	MODIFICATION	BY	CH	DATE



CORNERSTONE - LONDON/BEACON

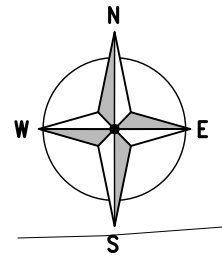
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Cell ID No		
CORNERSTONE	TEF	VF
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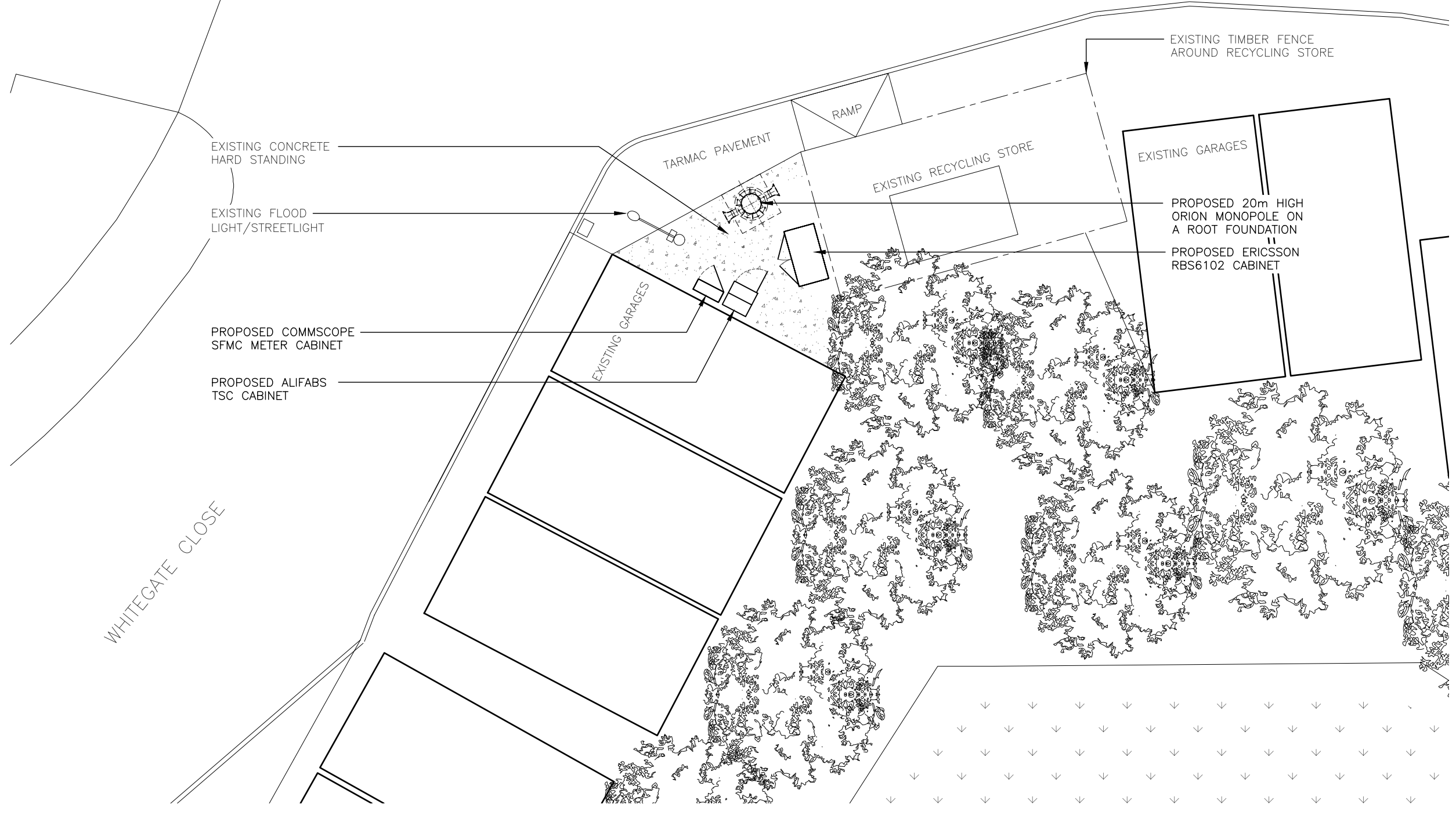
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GATEWAY CENTRE GARAGES WHITEGATE CLOSE STAITHES NORTH YORKSHIRE TS13 5BB		

Drawing Title: SITE LOCATION MAPS				
Purpose of issue: PLANNING				Dwg Rev:
Drawing Number: 100				A
Surveyed By: DW		Original Sheet Size: A3		Pack Issue:
Drawn: DP	Date: 16.11.21	Checked: DW	Date: 10.03.22	C





NYMNP  
09/06/2022



**PROPOSED SITE PLAN**  
(1:100)

The drawings comply with TEF & Vodafone Standard ICNIRP guidelines.  
Designed in accordance with CORNERSTONE document: SDN0013

ALL DIMENSIONS ARE IN mm UNLESS NOTED OTHERWISE

N.G.R | E: 478141 N: 518497

NOTES:

C	Monopole relocated	DP	ddd	eee	
B	Monopole changed to Orion	DP	AL	09.05.22	
A	Issued for Approval	DP	DW	10.03.22	
REV	MODIFICATION	BY	CH	DATE	

Unit E, Madison Place, Northampton Road, Manchester, M40 5AG					



**CORNERSTONE - LONDON/BEACON**

Cell Name	Opt.
GATEWAY CENTRE GARAGES	G

Cell ID No		
CORNERSTONE	TEF	VF
205715_20	075453	N/A

**Site Address / Contact Details**

GATEWAY CENTRE GARAGES  
WHITEGATE CLOSE  
STAITHES  
NORTH YORKSHIRE  
TS13 5BB

Drawing Title: **PROPOSED SITE PLAN**

Purpose of issue:	Dwg Rev:
<b>PLANNING</b>	

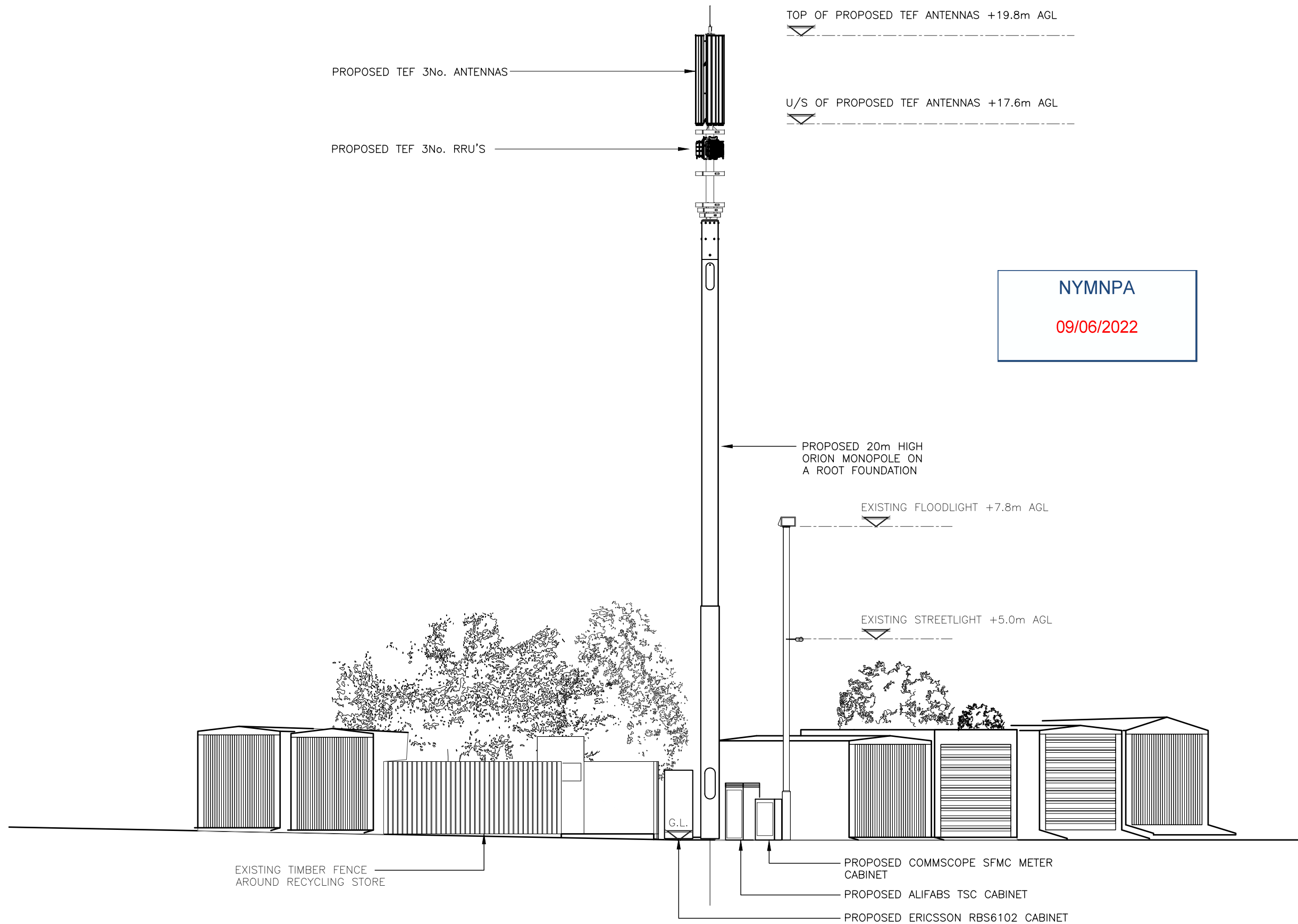
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NOTES:



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 09/06/2022

REV	MODIFICATION	BY	CH	DATE
C	Monopole relocated	DP	ddd	eee
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A	Issued for Approval	DP	DW	10.03.22

  
 Unit E, Madison Place, Northampton Road,  
 Manchester, M40 5AG

  
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Cell Name		Opt.
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Cell ID No		
CORNERSTONE	TEF	VF
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**Site Address / Contact Details**  
 GATEWAY CENTRE GARAGES  
 WHITEGATE CLOSE  
 STAITHES  
 NORTH YORKSHIRE  
 TS13 5BB

Drawing Title: PROPOSED SITE ELEVATION			
Purpose of issue: PLANNING			Dwg Rev:
Drawing Number: 300			C
Surveyed By: DW	Original Sheet Size: A3		Pack Issue:
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**PROPOSED NORTH ELEVATION**  
 (1:100)