



Appeal Decision

Site visit made on 11 February 2003

By Stephen Amos MA (Cantab) MCD MRTPI

An Inspector appointed by the Secretary of State for, Transport,
Local Government and the Regions

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Date 01 APR 2003

Appeal Ref: APP/N5660/AJO2/1098664

Commonside Court, 410 Streatham High Road, London SW16

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Vodafone Ltd against the Council of the London Borough of Lambeth.
- The application (Ref:01/03383/FUL/WKS) is dated 07/12/01.
- The development proposed is "installation of a roof top telecommunications base station comprising six antenna in false chimney stacks, two antenna face mounted, a ground based equipment cabinet, two air conditioning units and associated cabling".

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

1. The description above is from the agent's letter of 31 January 2003, confirming the precise development that the appellant considered was to be determined. The interests of the Council and interested persons would not be prejudiced if I consider the appeal on that basis, given that it is a reduction from the original scheme. I have based my considerations on the plans showing a ground based equipment cabinet. The Council claims that these were not the plans before it when the appeal was made, but local people were not consulted on the attempted revision to provide an equipment cabinet inside the building, and those plans were apparently not formally registered. Therefore, I cannot reasonably determine the case on that revised scheme, and the Council's stance would leave me unable to determine the appeal at all. That is untenable in natural justice terms. The Council has given its views on the ground based cabinet, and so its interest would not be prejudiced if I consider the appeal on that basis.
2. The appellants have submitted a revised north elevation (No. 11171D-S0007 Rev C). I have had regard to that revision, and the Council's comments on it, in making my decision.

Main Issues

3. The main issues are the effects (i) on the character and appearance of the area, including with respect to the Streatham Common Conservation Area, and (ii) on the living conditions of local residents by virtue of their fears about health risks associated with the proposal.

Planning Policy

4. Relevant Government advice is in Planning Policy Guidance Note (PPG) 8. The development plan is the Lambeth Unitary Development Plan (UDP). The relevant UDP Policies are CD2 *Proposals for Development*, and CD22 *Telecommunications Apparatus*. The first draft Deposit UDP "The Lambeth Plan 2002-2017" (draft UDP) is at quite an early stage of preparation and only limited weight can be given to it. The relevant policies are Policy 42 *Conservation Areas* and Policy 49 *Telecommunications Development*. UDP Policy CD2 and draft UDP Policy 42 reflect the duty in Sec. 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
5. The Council has referred to UDP Policy CD18, but this proposal does not involve an extension as such. I have not found that policy to be directly relevant, especially as PPG8 advises that policies framed in terms of conventional buildings and land use may not be adequate to deal with telecommunications apparatus. Given that both the UDP and draft UDP have specific policies on telecommunications development, it is more appropriate for this proposal to be determined against the background of those policies.

Reasons

6. The site is on the west of Streatham High Road, across from Streatham Common. The main characteristic of the Conservation Area is the open Common, which rises eastwards. It is grassed at this western end, with some formal tree planting. At its eastern end there is a wooded area and a formal park. The Conservation Area includes most of the frontage development north of Streatham Common North, south of Streatham Common South and west of Streatham High Road. The 6 storey flat-roofed building on this site is part of the latter frontage. It has commercial use on the partly vacant ground floor with flats above. It is part of the considerable variety in styles and scales of buildings in the Conservation Area.
 7. The face-mounted antennas would be high up on the north elevation, towards the front of the building. This elevation is prominent when approaching from the north along Streatham High Road. However, the antennas would be slimline in form, would not protrude greatly from the wall, and would be painted to match adjacent brickwork. For those reasons, their visual impact on the building and its surroundings would be very limited, and they would be neutral in their effect on the character and appearance of the Conservation Area as a whole. I draw the same conclusion in relation to the cable tray down from the roof, as it would be relatively tucked away towards the rear of the building, on its south side, and would be painted to match the brickwork. I also come to the same conclusion in respect of the equipment cabinet and its adjacent air conditioning units, as these would be relatively low structures, screened from Streatham High Road by the bulk of the building, and partially screened on their rearward side by an existing brick wall and a tree.
 8. The roof-mounted antennas would rise to about 2m above roof height. Three would be located near the front of the full-height section of the building, spaced irregularly across its width. The others would be sited on a projecting section roughly central to the rear elevation, also at full 6-storey height. Those 3 antennas would be sited at a diagonal to the main orientation of the building.
 9. The antennas would be mounted within false chimneys of GRP material, painted to match the existing chimneys on the building. The false chimneys would rise more than 1 m above the height of
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the existing chimneys, and their irregularly spaced siting would not reflect the relative symmetry of the building. Nevertheless, the height of the building and the effect of perspective in views of it would lessen the visual significance of the false chimneys, which in their detailed appearance would not be alien to their location on top of the building. Consequently, even taking into account the relative prominence of the building from Streatham Common, and from adjacent roads and nearby buildings, I consider that the antennas within their false chimneys would have a negligible effect on the appearance of the building and on its visual aspect within the wider area. The same is true of the proposed handrails, which would not be bulky or unduly prominent.

10. The use of false chimneys would accord with advice in PPG8 regarding the use of sympathetic design and camouflage to minimise impact, and would also pay regard to the existing chimneys on this building and others nearby. The effect on the character and appearance of the Conservation Area as a whole, taking account of its existing variety, would in my judgement be neutral. This view is consistent with the Council's Conservation Officer's expression of no objection to the proposal. I have concluded that by virtue of the neutral effect of its constituent components, the overall proposal would preserve both the character and appearance of the Streatham Common Conservation Area. In that respect I have found the proposal to comply with UDP Policy CD2, draft UDP Policy 42, and provision (A)(ii) of draft UDP Policy 49. I have found no conflict with the provisions of UDP Policy CD22 and draft UDP Policy 49 seeking to minimise the impact of telecommunications apparatus on the appearance of buildings and on surrounding visual amenities and the environment.
 11. In reaching those conclusions, there is no evidence before me to show that any alternative location is available of lesser visual effect, and the Council has not contested the appellant's evidence as to the unavailability or unsuitability of alternative sites investigated. I have been given no evidence suggesting there are any specific mast sharing options that should have been considered. The proposal would accord with advice in PPG8, and with provisions of UDP Policy CD22 and draft UDP Policy 49, which favour the use of existing buildings to site new antennas over the use of ground based masts.
 12. Local residents have expressed concern about the potential harm to health from radiation, including to children. The Council has supported that concern to some extent, noting that case law recognises that it can be lawful to refuse permission on the basis of anxieties about public safety. The Council has argued that the volume of objections indicates that there would be a significant loss in quality of life for those living nearby due to their fears of possible health implications. The Council has also referred to objectives in the draft UDP seeking to reduce causes of ill health and to ensure everyone has the opportunity of a decent home, quiet enjoyment of that home and the protection of residential amenity. Core Policy 7 of the draft UDP has been quoted, as it similarly provides that the ability for people to quietly enjoy their homes will be respected.
 13. During my visit I was shown the interior of a flat in the building, in which a bedroom would lie next to the wall-mounted antennas and a living room would be directly below a roof-mounted antenna. Relevant advice in PPG8 provides that health considerations and public concern can in principle be material considerations, but the PPG also says that the planning system is not in the Government's view the right place for determining health safeguards. If a proposal meets the guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP), it should not be necessary in processing a planning application to consider further the health aspects and concerns about them. The appellant has certified that this proposal conforms to the ICNIRP guidelines. Even within the flat I was shown, those guidelines would be complied with by a significant margin.
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14. References have been made to the Stewart Group report on "mobile phones and health", but it is important that PPG8 post-dates that report. The PPG conveys that the Government's acceptance of the precautionary approach advocated by Stewart is limited to the specific recommendations in the Group's report and the Government's response to them, and that there is no justification for any further precautionary actions. While I have treated health matters and concerns about them as material considerations, having regard to the relevant provisions of PPG8 I have found nothing specific to this case that would make such considerations into a supportable reason to dismiss this appeal.
 15. In my assessment, the camouflaged antennas and the limited sized cabinets would be likely to very soon become an established part of the area. That, taken together with the knowledge of the certification of compliance with the ICNIRP guidelines, should mean that people would be unlikely to be constantly aware of the equipment or in constant fear about its presence. Furthermore, the evidence is that the beams of greatest intensity would not fall on any of the nearby schools. I have concluded that the proposal would not cause harm to the living conditions of local residents, by virtue of their fears about the health risks associated with the proposal, to an extent that would justify dismissing the appeal. No interference with rights under the Human Rights Act 1998 and the European Convention on Human Rights sufficient to give rise to a violation of such rights would arise, given that the appeal proposal would be in full compliance with the ICNIRP guidelines.
 16. I have noted the concerns expressed that maintenance of the equipment necessary to protect people's health might not be carried out, but PPG8 makes clear that operators of telecommunications apparatus must abide by relevant health and safety legislation. Therefore, those concerns would not justify dismissing this appeal as other relevant legislative controls exist.
 17. The need for the scheme has been questioned, it being argued that Vodafone reception is already adequate. The appellant does not agree, but, in any event" Government advice is that the need for the telecommunications systems that a proposal is to support should not be questioned in the planning process. Government policy aims to ensure choice of telecommunications services, and that people should have a wider range of services to choose from and equitable access to the latest technologies. In that regard, the proposal is to provide third generation coverage as well as bolstering second generation coverage, which suffers in this area from problems including low signal strength. Therefore, the arguments regarding existing coverage do not provide a basis for dismissing this appeal.
 18. Potential devaluation of properties would not provide a valid reason to dismiss the appeal. PPG 1 makes clear that the planning system does not exist to protect the private interests of one person against the activities of another. While significant and irremediable interference with other electronic equipment can be a material planning consideration, there is no evidence of substance to show that any interference would be likely to occur in this case.
 19. It has been argued that the property's deeds will prevent the erection of the external equipment cabinet. However, the grant of planning permission is an entirely separate matter from any restrictions by covenants, and their existence would not provide a valid reason to refuse planning permission.
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20. The Council has argued that the equipment cabinet would reduce the ability of residents to use the private open space at the rear of the building. Given the limited size of the cabinet, and its separation from the main grassed area behind the building, I do not find that objection to the proposal to be well founded.
21. I have noted the various appeal decisions placed before me. I have found none to be so similar to this case as to set a precedent that must be followed. I have treated this appeal on its own merits, which are individual to the site, its relationship with its surroundings, and the particular form and nature of the development proposed.

Conditions

22. The Council has suggested conditions. I shall attach a condition requiring the development to be carried out in strict accordance with the approved plans, as certain elements such as the painting of the antennas and cable tray, and the provision and painting of the false chimneys, are essential to the preservation of the Conservation Area. I will amend the condition suggested to make specific reference to those elements. I will not include the words "without the prior consent of the Local Planning Authority" which would make the condition imprecise. I shall impose the condition requiring the removal of the apparatus when it is no longer required, to protect the character and appearance of the area in the longer term, and that requiring adherence to a specified noise level, to protect the amenities of nearby residents. For the avoidance of doubt I shall also include the air conditioning units in the latter condition.
23. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.
24. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for installation of a roof top telecommunications base station comprising six antennas in false chimney stacks, two antennas face mounted, a ground based equipment cabinet, two air conditioning units and associated cabling at Commonsides Court, 410 Streatham High Road, London SW16 in accordance with the terms of the application [Ref 01/03383/FUL/WKS], dated 07/12/01, and the plans submitted therewith (but with Dwg No.11171D-SO07 Rev C in place of Dwg No.11171D-SO07 Rev B), subject to the following conditions:
- The development hereby permitted shall be begun before the expiration of five years from the date of this decision.
 - The development shall not be carried out otherwise than in strict accordance with the approved plans, and in particular the provision of the false chimneys, and the painting of those chimneys, of the wall-mounted antennas and of the cable tray shall be completed before the apparatus is brought into use.
 - Any apparatus or structure provided in accordance with this permission shall be removed from the site as soon as reasonably practicable after it is no longer required for telecommunications purposes.
 - The background noise level from the equipment cabinet (including the meter cabinet and the air conditioning units) shall not exceed 56dB(a), when measured outside the window of the nearest noise sensitive or residential premises.
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Information

25. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.
26. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
27. Attention is drawn to the provisions of section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area.

Stephen Amos
Inspector

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT AND MATERIAL CHANGE OF USE

ISSUED BY THE LONDON BOROUGH OF LAMBETH

1. THIS NOTICE is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to all other material considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. THE PREMISES TO WHICH THIS NOTICE RELATES

410 Streatham High Road, London, SW16 6EX, ('the premises'), shown edged bold on the attached plan.

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission the erection of a telecommunications base station consisting of six 'half-height' antennas, three face-mounted panel antennas, two microwave dishes, radio equipment within the kitchen of Unit C on the first floor, two air conditioning units, handrailing and ladder on the balcony of Unit C, non-matching green piping, and all equipment cabling ('the telecommunications base station'), constituting operational development.

The former kitchen within Unit C on the first floor has been converted to a telecommunications equipment room, constituting a material change of use. The development will alter the use of the flat from "a residential unit (with shared balcony)" to "a sub-standard residential unit (without balcony) and a telecommunications equipment room".

4. REASONS FOR ISSUING THIS NOTICE

It appears to the Council that the above breach of planning control has occurred within the last four years.

The telecommunications base station, located in the Streatham High Road and Streatham Hill Conservation Area, is considered to have a detrimental impact on the character and appearance of the area, contrary to policies H2, CD2, CD15, CD18 and CD22 of the adopted Lambeth Unitary Development Plan. The conversion of a former kitchen within Unit C on the first floor to a telecommunications equipment room constitutes a material change of use.

5. WHAT YOU ARE REQUIRED TO DO

(1) Remove the unauthorised telecommunications base station, and associated equipment, including;
(a) The six 'half-height' antennas, three face-mounted panel antennas, and two microwave dishes at roof level, unless planning permission reference APP/N5660/AJ02/1098664 has been implemented in its entirety and in strict compliance with all conditions within 90 days from the date that this notice takes effect,

(b) The radio equipment within the former kitchen of Unit C on the first floor,

(c) The two air conditioning units, hand-railing and ladder on the balcony, together with attached non-matching green piping, and

(d) All equipment cabling, unless planning permission reference APP/N5660/AJ02/1098664 has been implemented in its entirety and in strict compliance with all conditions within 90 days from the date that this notice takes effect in which event the removal only of the cabling running from the former kitchen room in Unit C to the point of the cable route authorised within planning permission reference APP/N5660/AJ02/1098664.

(2) Restore:

(a) the room housing telecommunications equipment within Unit C, so that it is able to be used for residential purposes as part of that residential unit,

- (b) the blocked-up window to Unit C, to its condition before the unauthorised development, and
- (c) the balcony to Unit B and C, to its condition before the unauthorised development.

(3) Remove all resultant debris from the premises.

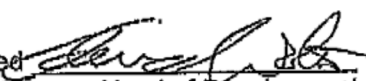
6. TIME FOR COMPLIANCE

90 days after this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on the 17th September 2004 unless an appeal is made against it beforehand.

Dated 6th August 2004

Signed 
Ed Watson - Head of Development Control

On behalf of the London Borough of Lambeth, Acre House, 10 Acre Lane, London, SW2 5LL

ANNEX

EXPLANATORY NOTE - YOUR RIGHT OF APPEAL

You have a right of appeal against this Enforcement Notice. The enclosed booklet 'Making your Enforcement Appeal' sets out your rights and identifies the grounds on which an appeal may be brought under section 174 of the Planning Act. A fee is payable under regulation 10 of the Town and Country Planning (Fees for Applications) Regulations 1989(b) for the deemed application for planning permission for the development alleged to be in breach of planning control in the Enforcement Notice.

In this instance, should a ground (a) appeal be made, the total fee payable is £440. Half of this should be paid to the London Borough of Lambeth (cheques made payable to the 'London Borough of Lambeth') and the remaining half should be paid to the Planning Inspectorate (cheques made payable to the 'Office of the Deputy Prime Minister').

If you decide to appeal, you may use the three enclosed appeal forms.

- (a) One is for you to send to the Secretary of State together with a copy of this Enforcement Notice.
- (b) The second copy of the appeal form and Enforcement Notice should be sent to Lambeth Planning, Planning Enforcement, Acre House, 10 Acre Lane, London, SW2 5LL.
- (c) The third is for your own records.

The appeal must be made by giving written notice of the appeal to the Secretary of State before the date specified in paragraph 7 of the Enforcement Notice or by sending such notice in a properly addressed, pre-paid letter posted to the Secretary of State as such time that, in the ordinary course of post, it would be delivered to the Secretary of State before that date.

You must submit to the Secretary of State, either when giving notice of an appeal or within 14 days from the date on which the Secretary of State sends you a notice so requiring you, a statement in writing specifying the grounds on which you are appealing against the Enforcement Notice and stating briefly the facts on which you propose to rely in support of each of those grounds.

WHAT HAPPENS IF YOU DO NOT APPEAL

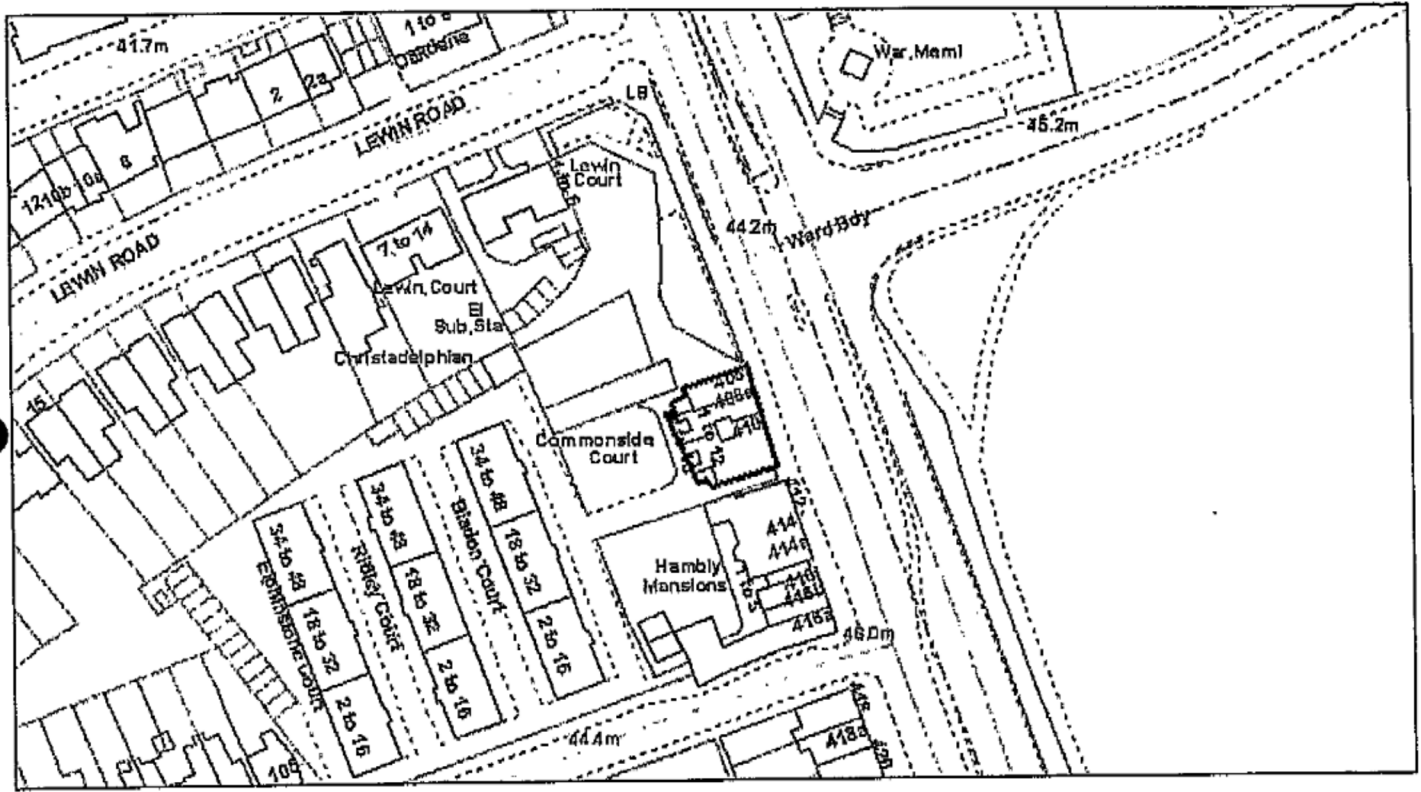
If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Enforcement Notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in paragraph 6 of the Enforcement Notice. Failure to comply with an Enforcement Notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

PARTIES SERVED WITH ENFORCEMENT NOTICE

Vodafone (UK) Ltd, C/- Trudy Schmidt, Vodafone House, The Connection
Owner / Occupier, Flat 2, Commonsides Court, 410 Streatham High Road, London
Derri Properties Limited, Garrick House, 27a High St, Wimbledon
Derri Properties Limited, Suite 5, 121 Merton Rd, London
Derri Properties, Flat 2, Commonsides Court, C/- Garrick House, 27a High St
Posted On Site, Commonsides Court, 410 Streatham High Road, London

Enforcement Notice Plan

Commonside Court, 410 Streatham High Road, London SW16 6EX



04/00355/3CNS



DC/NG/enk/22928

Edward Hollamby OBE FRIBA FRTP I DipTP(Lond)
Director of DevelopmentDate of Council's decision
12th August, 1982.**LAMBETH**London Borough of Lambeth
138-146 Clapham Park Road
London SW4

01-274 7722 extension

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1190

Dear Sir(s),

Town and Country Planning Act 1971 and Orders made thereunder**Conditional Permission for Development**

The London Borough of Lambeth hereby permits under the above mentioned Act and the Orders made thereunder the development referred to in the under mentioned schedule subject to the conditions set out therein and in accordance with the plans submitted, save in so far as may otherwise be required by the said conditions.

In accordance with the statutory provisions, your attention is drawn to the Statement of Applicant's Rights endorsed hereon.

Schedule

Date of application:

11th June, 1982.

Plans submitted:

Regd. No. 0961/82/22928/16. Applicant's plan NO. SHK/419
1059(.

Development:

The erection of a single storey extension at the rear of
410 Streatham High Road, Lambeth.**Conditions**

1. The development to which this permission relates must be begun not later than the expiration of five years from the date hereof.
2. All new external finishes shall be carried out in materials to match the existing facing work.

Reasons

1. To comply with Section 41 of the Town and Country Planning Act 1971.
2. To ensure that the external appearance of the building is satisfactory.

Yours faithfully,
[Signature]



Appeal Decisions

Site visit made on 02 August 2005

by Miss E C A Parkhill BA LLB DipTP MRTPI

an Inspector appointed by the First Secretary of State

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Date

29 SEP 2005

Appeal A: APP/N5660/C/04/1160761
410 Streatham High Road, London SW16 6EX

- 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 appeal is made by Vodafone Ltd against an enforcement notice issued by the Council of the London Borough of Lambeth.
- The Council's reference is 04/00355/3CNS.
- The notice was issued on 6 August 2004.
- The breach of planning control as alleged in the notice is without planning permission, the erection of a telecommunications base station consisting of six 'half-height' antennas, three face-mounted panel antennas, two microwave dishes, radio equipment within the kitchen of Unit C on the first floor, two air conditioning units, handrailing and ladder on the balcony of Unit C, non-matching green piping, and all equipment cabling, constituting operational development. The former kitchen within Unit C on the first floor has been converted to a telecommunications equipment room, constituting a material change of use. The development will alter the use of the flat from "a residential unit (with shared balcony)" to "a sub-standard residential unit (without balcony) and a telecommunications equipment room".
- The requirements of the notice are:
 - (1) Remove the unauthorised telecommunications base station, and associated equipment, including:
 - (a) The six 'half-height' antennas, three face-mounted panel antennas, and two microwave dishes at roof level, unless planning permission reference APP/N5660/AJ02/1098664 has been implemented in its entirety and in strict compliance with all conditions within 90 days from the date that this notice takes effect,
 - (b) The radio equipment within the former kitchen of Unit C on the first floor,
 - (c) The two air-conditioning units, hand-railing and ladder on the balcony, together with attached non-matching green piping, and
 - (d) All equipment cabling, unless planning permission reference APP/N5660/AJ02/1098664 has been implemented in its entirety and in strict compliance with all conditions within 90 days from the date that this notice takes effect in which event the removal only of the cabling running from the former kitchen room in Unit C to the point of the cable route authorised within planning permission reference APP/N5660/AJ02/1098664.
 - (2) Restore:
 - (a) The room housing telecommunications equipment within Unit C, so that it is able to be used for residential purposes as part of that residential unit,
 - (b) The blocked-up window to Unit C, to its condition before the unauthorised development, and
 - (c) Remove all resultant debris from the premises.
- The time for compliance with the requirements is 90 days.

- The appeal is proceeding on the grounds set out in Section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal B: APP/N5660/A/04/1171273

Commonside Court, 410 Streatham High Road, London SW16 6EX

- 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 Vodafone Ltd against the decision of the Council of the London Borough of Lambeth.
- The application Ref: 04/02575/FUL, dated 10 August 2004, was refused by notice dated 9 November 2004.
- The development proposed is variations to extant permission dated 1 April 2003 (PINS ref. 01/03383/FUL/WKS) for a roof top telecommunications base station comprising six antenna in false chimney stacks, two antenna face mounted, a ground based equipment cabinet, two air conditioning units and associated cabling. Variations include, formation of an internal equipment room within a small portion of the existing flat, bespoke painting of the bricked up window to create a false window, wall mounting two air conditioning units on a single storey projection to the rear of the building, enclosing cabling from the roof within a tray colour matched with the existing brick background, the application of a 1.5 sq inch mesh in front of the existing handrail matching (incl. colour) the mesh on neighbouring balconies and the addition of a hoop and ladder inside the brick recess at ground floor level to the rear.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Appeal C: APP/N5660/A/05/1171654

Commonside Court, 410 Streatham High Road, London SW16 6EX

- 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 Vodafone Ltd against the decision of the Council of the London Borough of Lambeth.
- The application Ref: 04/02572/FUL, dated 10 August 2004, was refused by notice dated 9 November 2004.
- The development proposed is variation of Condition 2 of planning permission granted on 1 April 2003 for a rooftop telecommunications installation comprising 6 half height antennas enclosed within GRP chimney stacks, two face mounted antennas, a ground based equipment cabin, two air conditioning units and associated works (PINS reference 01/03383/FUL/WKS), and allow for the formation of an internal equipment room within a small portion of the existing flat, bespoke painting of the bricked up window to create a false window, wall mounting two air conditioning units on a single storey projection to the rear of the building, enclosing cabling from the roof within a tray colour matched with the existing brick background, and the application of a 1.5 sq inch mesh in front of the existing handrail matching (incl. colour) the mesh on neighbouring balconies and the addition of a hoop and ladder inside the brick recess at ground floor level to the rear.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

1. In the interests of greater accuracy I have reworded the description of the planning applications the subject of the Section 78 appeals, to accord with the descriptions of the development given in the planning applications submitted by the appellant.

Background

2. The site is situated on the west side of Streatham High Road opposite Streatham Common. It comprises a six storey high building, Commonside Court, predominantly in residential use with flats and with retail and commercial uses at ground floor level. The building has a flat roof and forms a dominant feature in the immediate locality. It is adjoined by open land to the north and by a three storey building in residential and retail and commercial uses to the south. To the rear west side of the building is a wall enclosed garden area with grass and trees forming part of the private grounds of Commonside Court. West of the site, fronting an access road, is a residential block, Bladon Court.
3. An appeal against the failure of the Council to give notice within the prescribed period of a decision on an application for planning permission for installation of a roof top telecommunications base station comprising six antenna in false chimney stacks, two antenna face mounted, a ground based equipment cabinet, two air conditioning units and associated cabling, submitted on 7 December 2001 (App No 01/03383/FUL/WKS) was allowed and planning permission granted subject to conditions on 1 April 2003 (Appeal Ref: APP/N5660/A/O2/1098664). Condition 2 of the planning permission stipulated that the development shall not be carried out otherwise than in strict accordance with the approved plans, and in particular the provision of the false chimneys, and the painting of those chimneys, of the wall-mounted antennas and of the cable tray shall be completed before the apparatus is brought into use. The approved plans include provision for a ground based equipment cabinet adjacent to the building in the private garden area to the rear. Under the revised development proposals the subject of the Section 78 appeals and the enforcement action, the ground based equipment cabinet has been relocated within the former kitchen of Unit C, the flat on the rear first floor of the building.

Ground (c)

4. The main issue under this ground of appeal is whether there has not been a breach of planning control because, for example, permission has already been granted, or it is permitted development.
5. Referring to Section 55 of the 1990 Act and *Boroughs Day v Bristol City Council [1996]*, the appellant contends that there has been no breach of planning control because the external works would not result in a significant or substantial effect on the external appearance of the building and would not be visible from the main vantage points along Streatham Common and Streatham High Road; and the internal works, which consist of the relocation of the external equipment cabin to the inside of the residential unit at first floor level, would not have a significant or substantial effect on the current residential use of the flat or that of the building as a whole as only a small part of an existing flat would be used for the purpose of housing telecommunications equipment. In summary, the appellant contends that there has been no breach of planning control because the development does not vary materially from the approved scheme; preserves the character and appearance of

the Streatham Conservation Area; does not constitute development requiring planning permission; and the LPA have not served a breach of condition notice.

6. Several of the points made by the appellant and the Council in their written representations under this ground of appeal, relate to the planning merits of the development. These are matters for consideration under the ground (a) appeal. In terms of the lawfulness of the development I have considered the appellant's contention that the external works would not have a significant or substantial effect on the external appearance of the building and that therefore there has been no breach of planning control. Section 55 (2) (a) of the 1990 Act states that the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building, or do not materially affect the external appearance of the building shall not be taken for the purposes of the Act to involve development of the land. I conclude from my site visit that the cumulative effect of removing the kitchen window of Unit C at first floor level and replacing it with bricks, installing two air conditioning units on the first floor balcony with associated green piping, projecting a mass of thick black cabling from the internal telecommunications equipment room across the top of the bathroom window of Unit C, replacing the mesh on the first floor balcony with handrailing and installing a ladder, has materially affected the external appearance of the building, when viewed from the rear entrance gate off the access road to the rear. I therefore conclude that the alterations made to the external appearance of the building constitute development under the terms of Section 55 (2) (a) of the 1990 Act.
7. I have considered the Council's contention that the conversion of the kitchen within Unit C for the use of a telecommunications equipment room constitutes a material change of use of the flat from a residential unit (with shared balcony) to a sub-standard residential unit (without balcony) and a telecommunications equipment room. I saw on my visit that the former kitchen of Unit C is in use as a telecommunications equipment room with access from the first floor balcony via the external ladder from ground level. As a consequence of the change, the former lounge/dining room of the flat Unit C has been converted into a kitchen/dining/living room with a knock-on effect of reducing the total usable floor size of the residential unit to below the minimum standard set in the Council's Supplementary Planning Guidance 4 (Internal Layout and Room Sizes) and the flat no longer has access to the first floor balcony which the residential unit shared with Unit B. Although the room created to accommodate the telecommunications equipment is very small in size, I find as a matter of fact and degree that a material change has occurred in the use of the flat from a residential unit (with shared balcony) to a sub-standard residential unit (without balcony) and a telecommunications equipment room. However, in terms of the use of the building as a whole, I conclude that because of the very small size of the equipment room the change of use that has taken place is no more than de minimis. As regards the non serving of a breach of condition notice by the Council, para 4.6 of Annex 4 to Circular 10/97 states that the breach of condition notice is mainly intended as an alternative to an enforcement notice for remedying a breach of control arising from failure to comply with any planning condition. It was therefore open to the Council to choose whether to serve an enforcement notice or a breach of condition notice.
8. Of overriding importance in considering the lawfulness of the development carried out are the particular circumstances of this case, namely, the planning permission granted for the installation of a roof top telecommunications base station on the site. In this regard I find that Condition 2 of that planning permission, granted on appeal on 1 April 2003, is very

explicit in that it states categorically that: *"The development shall not be carried out otherwise than in strict accordance with the approved plans, and in particular the provision of the false chimneys, and the painting of those chimneys, of the wall-mounted antennas and of the cable tray shall be completed before the apparatus is brought into use."*

9. As I saw on my visit the development has been carried out. But, contrary to the approved plans no provision has been made for a ground based equipment cabinet. Instead, as already noted, an internal telecommunications equipment room has been created in what was formerly the kitchen of Unit C on the first floor of the building. Also contrary to the approved plans, two air conditioning units (proposed in the approved plans to be attached to the ground based equipment cabinet), handrailing and a ladder, together with non-matching green cabling, have been sited on the balcony formerly used by Unit C and Unit B but now unable to be used by Unit C, and a mass of thick black cabling has been projected across the top of the bathroom window of Unit C from the internal telecommunications equipment room. Also, 'half-height' antennas have been erected on the roof-top without the disguise of the false chimneys proposed in the approved plans. I therefore find as a matter of fact that the development that has taken place has been carried out contrary to the approved plans and Condition 2 of the planning permission granted on 1 April 2003. As the development has taken place without planning permission and is not permitted development under the provisions of Part 24 of the Town and Country Planning (General Permitted Development) Order 1995 because it is situated in a Conservation Area, it constitutes a breach of planning control.
10. For the above reasons the appeal on ground (c) fails.

Ground (a) and Section 78 Appeals

11. The main issues are first, the effect of the development upon the character and appearance of the Streatham Hill Conservation Area and the building, Commonsidge Court; secondly, the effect of the development upon the residential amenities of the occupants of Unit C; and thirdly, possible health risks.
12. The development plan for the area comprises the adopted Lambeth Unitary Development Plan (UDP). Supplementary Planning Guidance 4 (Internal Layout and Room Sizes) was approved by the Council in 2000 following public consultations. I therefore accord it considerable weight. The UDP is under review with a Revised Deposit Replacement UDP deposited in June 2004. The relevant policies in the emerging plan largely echo the current policies. However, as the plan is at an early stage in its preparation I accord it limited weight at this time.
13. The site lies within the Streatham Hill Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires planning authorities and the Secretary of State on appeal, to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Reflecting this requirement and Government guidance in PPG 15, Policy CD2 of the adopted UDP seeks to ensure that in considering development proposals for alteration to an existing building, the Council will ensure that the character or appearance of a conservation area is preserved or enhanced. Policy CD15 seeks to achieve a high quality of design in all new development, carefully related to its surroundings and contributing positively to the area. Policy CD18 requires

alterations and extensions to respect the plan form, period, architectural characteristics and detailing of the original building, including external features such as chimneys, porches etc and should use matching materials. Policy H17(h)(3) states that the Council will adopt a flexible approach to self-contained bedsitter/studio/1 bedroom units even if less than normal minimum size and that the Council's guidance figures for internal layout and room sizes are contained in Supplementary Planning Guidance. Supplementary Planning Guidance 4 (Internal Layout and Room Sizes) advises that residential units should be self-contained and self-sufficient and should normally meet, and preferably exceed the minimum sizes as set out.

14. On telecommunications, Policy CD22 in the adopted UDP states that planning permission will normally be granted for telecommunications development from licensed operators for telecommunications apparatus provided, amongst other matters, that careful consideration has been given to the siting, design, materials and colour of the apparatus and associated facilities to minimise their impact on the appearance of the building or structure, and on surrounding visual amenities and the environment (given any special technical or operational requirements of the system); and the proposal will not adversely affect conservation areas (including skylines), listed buildings or sites of nature conservation importance (given any special technical or operational requirements of the system).
15. Government policy on telecommunications in the revised version of PPG 8 (August 2001) is to facilitate the growth of new and existing telecommunications systems whilst keeping the environmental impact to a minimum. The Government places great emphasis on its well established national policies for the protection of the countryside and urban areas including areas and buildings of architectural or historic importance. Protection from visual intrusion and the implications for subsequent network development will be important considerations in determining applications. In order to limit visual intrusion, considerable importance is attached to keeping the numbers of radio and telecommunications masts, and of the sites for such installations, to the minimum consistent with the efficient operation of the network. The sharing of masts and sites is strongly encouraged where that represents the optimum environmental solution in a particular case. Use should also be made of existing buildings and other structures, such as electricity pylons, to site new antennas. In seeking to arrive at the best solution for an individual site, authorities and operators should use sympathetic design and camouflage to minimise the impact of development on the environment. Particularly in designated areas, the aim should be for the apparatus to blend into the landscape.
16. Para 135 of the Code of Best Practice on Mobile Phone Network Development (2002) advises amongst other matters that when placing equipment on buildings and/or structures, operators should aim for the development to be painted to correspond with the background or to reduce contrast; keep in proportion to the building or structure; respect architectural style; avoid creating clutter; and use clean lines and maintain symmetry. Reflecting the guidance in PPG 8, para 142 of the Code advises that the use of GRP can be very useful in harmonising features into the landscape, for example, it can be used to simulate masonry and stone features such as chimneys. Para 143 states that which option to choose depends on the local conditions and factors as well as the sensitivity of the area. Para 153 advises that for sites located within conservation areas, particular attention needs to be paid to the siting and location of any apparatus. Special attention should be paid to the desirability of preserving and enhancing the special character and appearance of the conservation area.

Effect on Conservation Area and Building

17. I share the view of the previous Inspector that the main characteristic of the Streatham Hill Conservation Area is the open Common situated on the east side of Streatham High Road, facing the frontage of the appeals' building. I also share his view that the appeals' building forms part of the considerable variety in styles and scales of buildings in the Conservation Area. The Inspector concluded that the effect on the character and appearance of the Conservation Area of the development proposals before him at that time would be neutral by virtue of the neutral effect of its constituent components and that the overall proposal would preserve both the character and appearance of the Conservation Area. He further concluded that the use of false chimneys would accord with advice in PPG 8 regarding the use of sympathetic design and camouflage to minimise impact, and would also pay regard to the existing chimneys on the building and others nearby. He also found no conflict with the provisions of UDP Policy 22 seeking to minimise the impact of telecommunications apparatus on the appearance of buildings and on surrounding visual amenities and the environment.
18. I consider the absence of the false chimneys on the roof antennas has resulted in the antennas appearing stark and incomplete when viewed from the east elevation of the building fronting Streatham High Road. I therefore conclude that the roof antennas detract unacceptably from the character and appearance of the Conservation Area and consequently would neither preserve nor enhance the character and appearance of the Conservation Area, contrary to Policy CD2 of the UDP and Government guidance in PPG 15, PPG 8 and the Code of Best Practice.
19. The main developments which have taken place contrary to the approved plans are located on the west rear elevation of the building. Consistent with the view of the previous Inspector with regard to the proposed ground based equipment cabinet and proposed adjacent air conditioning units, I consider that because the various unauthorised developments carried out at the rear first floor level of the building are screened from Streatham High Road by the bulk of the building, these developments, namely, the replacement of the kitchen window of Unit C with bricks, the installation of the two air conditioning units on the first floor balcony with associated green piping, the projection of a mass of thick black cabling from the internal telecommunications equipment room across the top of the bathroom window of Unit C, the replacement of the mesh on the first floor balcony with handrailing and the installation of a ladder, would in my view be neutral in terms of their effect on the character and appearance of the Conservation Area as whole. The character and appearance of the Conservation Area would therefore in my view be preserved consistent with Policy C2 of the UDP and Government guidance in PPG 15, PPG 8 and the Code of Best Practice.
20. I am however, concerned about the visual impact of the various unauthorised developments upon the appearance of the building as a whole. This six storey brick building was constructed in the early 20th Century. As I saw on my visit a striking feature of the building is the harmonious arrangement of its windows and balconies both vertically and horizontally and the matching of the materials used in its construction. I conclude from my visit that the replacement of the kitchen window of Unit C with bricks, the installation of the two air conditioning units on the first floor balcony with associated green piping, the projection of a mass of thick black cabling from the internal telecommunications equipment room across

the top of the bathroom window of Unit C, the replacement of the mesh on the first floor balcony with handrailing and the installation of a ladder, have cumulatively resulted in a development which is totally at variance and out of harmony with the appearance of the existing building, contrary to Policies CD15, CD18 and CD22 of the UDP and Government guidance in PPG 8 and the Code of Best Practice.

21. I turn now to the developments proposed in the Section 78 appeals' applications which seek planning permission for a variation of the development granted planning permission by the previous Inspector in 2003. The main elements of the exterior proposals are the enclosure of the 'half-height' antennas on the roof of the building by false GRP chimneys, coloured to match existing chimneys, bespoke painting of the bricked up window to create a false window, wall mounting the two air conditioning units on a single storey projection to the rear of the building, enclosing the cabling from the roof within a tray colour matched with the existing brick background, the application of a 1.5 sq inch mesh in front of the existing handrail matching (including colour) the mesh on neighbouring balconies and the addition of a hoop and ladder inside the brick recess at ground floor level to the rear of the building. I conclude from my consideration of the application plans and my site visit that the implementation of these features would result in a development which would be substantially in harmony with the appearance of the existing building, would preserve the character and appearance of the Conservation Area and would thereby be compatible with Policies CD2, CD15, CD18 and CD22 in the UDP and Government guidance in PPG 15, PPG 8 and the Code of Best Practice.

Effect on Residential Amenities

22. The deemed planning application under the ground (a) appeal and the Section 78 appeals include the formation of an internal equipment room within the former kitchen of the existing flat in Unit C. I saw on my visit that the internal equipment room created out of the former kitchen is very small in size. I saw also that the former lounge/dining room of Unit C has been converted into a modern kitchen/dining/living room and is spacious in its size. I therefore conclude that although the total usable floor size of the residential unit is now below the standard minimum floor area advised in the Council's Supplementary Planning Guidance 4 (Internal Layout and Room Sizes), the amenities of the occupants of this 1 bedroom flat have not been unduly harmed by the incorporation of the kitchen facility within the former lounge/dining room of the unit with the consequent reduction in usable floor area. I note the loss of access to the balcony formerly shared with the occupants of Unit B. However, having regard to the small size of the balcony, its shared nature and the availability of the private garden area nearby, I do not consider that the residential amenities of the occupants of Unit C would be unduly harmed through its loss. I therefore conclude that the change of use would be largely compatible with UDP Policy H17(h)(3).

Possible Health Risks

23. I have considered the concerns raised by local residents at possible health risks from the development. I find no reason to disagree with the conclusions of the previous Inspector on this matter. In response to public concern about the possible health effects associated with telecommunications base stations, the Government asked the National Radiological Protection Board (NRPB), which has recently merged with the Health Protection Agency forming its new Radiation Protection Division, to set up the Independent Expert Group on

Mobile Phones (IEGMP), chaired by Sir William Stewart FRS FRSE. The Group's Report (the Stewart Report) was published in May 2000 and concluded in respect of base stations, that the balance of evidence indicated that there is no general risk to the health of people living near to such stations as exposures are expected to be small fractions of the international guidelines. However, it also referred to the possibility of indirect adverse effects on their well-being in some cases. The Report therefore recommended that a precautionary approach be taken until more detailed and scientifically robust information on any health effects becomes available.

24. The Government accepted the approach recommended in the Stewart Report, which is limited to the specific recommendations in the Report, including the need to meet the stringent guidelines set by the International Committee on Non-Ionising Radiation Protection (ICNIRP) for public exposure to electromagnetic field emissions (EMF) and a substantial research programme to carry out research into the effects of mobile phone technology on health. Following on from the recommendations of the Stewart Report, a further and thorough review of the latest scientific studies was published by the Advisory Group on Non-Ionising Radiation (AGNIR) in January 2004, chaired by Professor A J Swerdlow. The Report concluded that exposure levels from living near to mobile phone base stations are extremely low, and the overall evidence indicates that they are unlikely to pose a risk to health.
25. In the present case the appellant has confirmed that the development conforms with the ICNIRP guidelines recommended by the Stewart Report on a precautionary basis. In the circumstances, as stated in PPG 8, it is the Government's view that it should not be necessary for a local planning authority, in processing an application for planning permission, to consider further the health aspects and concerns about them. I can however understand the genuine concerns on health issues raised by local residents. But, having regard to the firm objective evidence that the EMF emissions associated with the development conform with the ICNIRP guidelines recommended by the Stewart Report on a precautionary basis and the findings of the latest further scientific research, I conclude that the balance of evidence is that there would be no general risk to the health of people living in the vicinity of the development including children. No new scientific evidence has been presented to alter my conclusions.

Conclusions

26. For the above reasons I conclude that the visual impact of the unauthorised external developments upon the appearance of the building, Commonsie Court, is unacceptable and planning permission will be refused for the deemed planning application. The appeal on ground (a) therefore fails.
27. For the reasons given above the appeals under Section 78 succeed and planning permission will be granted for the development.

Ground (f)

28. Having regard to my findings on the impact of the unauthorised external developments on the appearance of the building, I consider the requirements of the notice to be reasonable and necessary to remedy the breach of planning control and the injury to amenity caused by the breach. This includes the removal of the radio equipment within the former kitchen of

Unit C and its restoration for residential purposes as it would clearly become inoperative when the external telecommunication apparatus was removed. The appeal on ground (f) therefore fails.

Ground (g)

29. The appellant contends that the time period of 90 days for compliance with the enforcement notice is wholly inadequate and unreasonable to acquire a further site within this part of Streatham. A period of no less than 2 years is requested to locate and acquire an arguably sequentially less acceptable location that would satisfy current 2G and 3G coverage requirements.
30. I consider the time scale of 90 days to be a reasonable period in which to comply with the requirements of the notice. The search for and acquisition of an alternative site would be a matter for the appellant to pursue. Having regard to my findings on the planning merits of the unauthorised external developments, I find no justification for extending the time for compliance with the notice. The appeal on ground (g) therefore fails.

Conclusions

31. For the reasons given above and having regard to all other matters raised, I conclude that the appeal on ground (a) against the enforcement notice (Appeal A) should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.
32. For the reasons given above and having regard to all other matters raised, I conclude that the appeals under Section 78 (Appeals B & C) should succeed and planning permission will be granted for the development as proposed in the application plans.

Conditions

33. In granting planning permission for the development the subject of Appeals B & C, I propose to impose conditions suggested by the Council, reworded slightly in the interests of greater clarity and to accord more closely with the model conditions in Circular 11/85. I consider the conditions to be reasonable and necessary and consistent with the conditions imposed on the planning permission granted by the previous Inspector.
34. In the interests of safeguarding the appearance and character of the building and the Conservation Area, I propose to impose conditions requiring the development to be carried out in strict accordance with the approved plans, and for the installation to be removed when no longer required for telecommunication purposes. This latter condition would be consistent with the condition advised in Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development Order) 1995. In the interests of safeguarding the amenities of the occupants of the residential flats nearby, I propose to impose a condition requiring the background noise level from the telecommunication equipment in the equipment room not to exceed 56dB(a) when measured from within Unit C or Unit B of Commonsidge Court, or outside the external door leading to the first floor balcony. As the development has already commenced, I consider the imposition of the usual time limit condition on the commencement of the development to be unnecessary.

Formal Decisions

Appeal A: APP/N5660/C/04/1160761

35. I dismiss the appeal and uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under Section 177(5) of the 1990 Act as amended.

Appeal B: APP/N5660/A/04/1171273

36. I allow the appeal, and grant planning permission for variations to extant permission dated 1 April 2003 (PINS ref. 01/03383/FUL/WKS) for a roof top telecommunications base station comprising six antenna in false chimney stacks, two antenna face mounted, a ground based equipment cabinet, two air conditioning units and associated cabling. Variations include, formation of an internal equipment room within a small portion of the existing flat, bespoke painting of the bricked up window to create a false window, wall mounting two air conditioning units on a single storey projection to the rear of the building, enclosing cabling from the roof within a tray colour matched with the existing brick background, the application of a 1.5 sq inch mesh in front of the existing handrail matching (incl. colour) the mesh on neighbouring balconies and the addition of a hoop and ladder inside the brick recess at ground floor level to the rear, at Commonsides Court, 410 Streatham High Road, London SW16 6EX, in accordance with the terms of the application, Ref: 04/02575/FUL, dated 10 August 2004, and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans hereby approved.
- 2) Any apparatus or structure provided in accordance with this permission shall be removed from the land as soon as reasonably practicable after it is no longer required for telecommunication purposes.
- 3) The background noise level from the telecommunication equipment in the equipment room shall not exceed 56dB(a), when measured within Unit C or Unit B of Commonsides Court, or outside the external door leading to the first floor balcony.

Appeal C: APP/N5660/A/05/1171654

37. I allow the appeal, and grant planning permission for variation of Condition 2 of planning permission granted on 1 April 2003 for a rooftop telecommunications installation comprising 6 half height antennas enclosed within GRP chimney stacks, two face mounted antennas, a ground based equipment cabin, two air conditioning units and associated works (PINS reference 01/03383/FUL/WKS), and allow for the formation of an internal equipment room within a small portion of the existing flat, bespoke painting of the bricked up window to create a false window, wall mounting two air conditioning units on a single storey projection to the rear of the building, enclosing cabling from the roof within a tray colour matched with the existing brick background, and the application of a 1.5 sq inch mesh in front of the existing handrail matching (incl. colour) the mesh on neighbouring balconies and the addition of a hoop and ladder inside the brick recess at ground floor level to the rear, at Commonsides Court, 410 Streatham High Road, London SW16 6EX, in

accordance with the terms of the application, Ref: 04/02572/FUL, dated 10 August 2004, and the plans submitted therewith, subject to the following conditions:

- 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans hereby approved.
 - 2) Any apparatus or structure provided in accordance with this permission shall be removed from the land as soon as reasonably practicable after it is no longer required for telecommunication purposes.
 - 3) The background noise level from the telecommunication equipment in the equipment room shall not exceed 56dB(a), when measured within Unit C or Unit B of Commonsie Court, or outside the external door leading to the first floor balcony.
38. Because of the effect of Section 180 of the 1990 Act, the enforcement notice shall cease to have effect so far as inconsistent with the permissions granted under the Section 78 appeals.

E.C. Anne Parkhill

INSPECTOR

STATUTORY REGISTER COPY

Your Ref:

Our Ref: 04/02575/FUL/DC_CM/22928

Vodafone
C/o Daly International (UK) Ltd
7 King Street Cloisters
Clifton Walk
Hammersmith
London W6 0GY



Date Printed 9th November 2004

RE: REFUSAL FOR PERMISSION FOR DEVELOPMENT

Dear Vodafone

DECISION NOTICE

TOWN AND COUNTRY PLANNING ACT 1990.

The London Borough of Lambeth hereby refuses to permit under the above mentioned Acts and associated orders the development referred to below as shown on the plan(s) if submitted.

Your attention is drawn to the Statement of Applicant's Rights attached.

Application Number: 04/02575/FUL Date of Application: 15.09.2004 Date of Decision 09.11.2004

Proposed Development At:
410 - 410A Streatham High Road London SW16 6EX

For:	Application for planning permission to carry out variations to permission granted on 1 April 2003 (Appeal Ref: APP/N5660/AJO2/1098664), with variations consisting of the formation of an internal equipment room within an existing flat, painting the bricked up window to create a false window, wall-mounting two air-conditioning units at the rear of the building, enclosing cabling from the roof within a colour-matched tray, the application of mesh in front of existing handrailing to match colour and style of existing mesh on other balconies at Commonsie Court, and the addition of a hoop and ladder inside the brick recess at ground floor level at the rear.
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Submitted Plans

11171D-S001 Rev A, 11171D-001 Rev A, 11171D-002 Rev A,
11171D-003 Rev A, 11171D-001 Rev A, 11171D-004 Rev A,

Lambeth Planning
Development Control
Acre House
10 Acre Lane
London SW2 5LL

Telephone 020 7926 1180
Facsimile ~020 7926 1171
www.lambeth.gov.uk

11171D-005 Rev A, 11171D-006 Rev A, 11171D-S003 Rev 1,
11171D-S004 Rev 1, 11171D-S008 Rev 1, 11171D-S010 Rev 2,

Reasons for Refusal

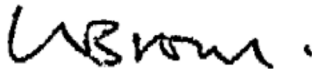
1 The proposal would result in the addition of alien features on the subject building which would become a discordant feature in the existing residential neighbourhood, resulting in a loss of visual amenity. This is contrary to Adopted UDP Policies CD15, CD18, CD22, and Revised Deposit Unitary Development Plan Policies 36 and 49.

2 The proposal would fail to preserve or enhance the character and appearance of the Streatham Common Conservation Area, and would in fact be harmful to it. This is contrary to Adopted UDP Policy CD2, and Revised Deposit Unitary Development Plan Policy 42.

3 The proposal would create a sub-standard residential unit which would not provide sufficient residential amenity to occupants of the unit, and this would be contrary to Adopted (and Revised Deposit) UDP Supplementary Policy Guidance 4.

Notes to Applicants:

Yours sincerely



Les Brown

Assistant Director Community Renewal (Planning)

Your Ref:

Our Ref: 04/02572/FUL/DC_CM/22928

STATUTORY
REGISTER COPY

Vodafone
C/o Daly International (UK) Ltd
7 King Street Cloisters
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Date Printed 9th November 2004

RE: REFUSAL FOR PERMISSION FOR DEVELOPMENT

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DECISION NOTICE

TOWN AND COUNTRY PLANNING ACT 1990.

The London Borough of Lambeth hereby refuses to permit under the above mentioned Acts and associated orders the development referred to below as shown on the plan(s) if submitted.

Your attention is drawn to the Statement of Applicant's Rights attached.

Application Number: 04/02572/FUL Date of Application: 16.09.2004 Date of Decision 09.11.2004

Proposed Development At:
410 - 410A Streatham High Road London SW16 6EX

For: Application to vary Condition 2 of the permission granted within Appeal Ref: APP/N5660/AJ02/1098664, to allow for the formation of an internal equipment room within an existing flat, painting the bricked up window to create a false window, wall-mounting two air-conditioning units at the rear of the building, enclosing cabling from the roof within a colour-matched tray, the application of mesh in front of existing handrailing to match colour and style of existing mesh on other balconies at Commonsides Court, and the addition of a hoop and ladder inside the brick recess at ground floor level at the rear.

Submitted Plans

11171D-S001 Rev A, 11171D-001 Rev A, 11171D-002 Rev A,
11171D-003 Rev A, 11171D-001 Rev A, 11171D-004 Rev A,

Lambeth Planning
Development Control
Acre House
10 Acre Lane
London SW2 5LL

Telephone 020 7926 1180
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11171D-005 Rev A, 11171D-006 Rev A, 11171D-S003 Rev 1,
11171D-S004 Rev 1, 11171D-S008 Rev 1, 11171D-S010 Rev 2,

Reasons for Refusal

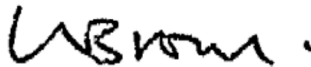
1 The proposal would result in the addition of alien features on the subject building which would become a discordant feature in the existing residential neighbourhood, resulting in a loss of visual amenity. This is contrary to Adopted UDP Policies CD15, CD18, CD22, and Revised Deposit Unitary Development Plan Policies 36 and 49.

2 The proposal would fail to preserve or enhance the character and appearance of the Streatham Common Conservation Area, and would in fact be harmful to it. This is contrary to Adopted UDP Policy CD2, and Revised Deposit Unitary Development Plan Policy 42.

3 The proposal would create a sub-standard residential unit which would not provide sufficient residential amenity to occupants of the unit, and this would be contrary to Adopted (and Revised Deposit) UDP Supplementary Policy Guidance 4.

Notes to Applicants:

Yours sincerely



Les Brown
Assistant Director Community Renewal (Planning)

29/9/76 (4)

Directorate of Development Services

T.P.6a

Edward Hollamby OBE FRIBA FRTPI DipTP(Lond)
Director of Development

WA/114a

DC/JP/MGG/22928

LAMBETH

8th October, 1976.

London Borough of Lambeth
138-146 Clapham Park Road
London SW4

01 720 1911 Ext. 7

~~01 720 1911 Ext. 7~~

Dear Sir(s),

Town and Country Planning Act 1971 and Orders made thereunder

Certificate of Completion

Issued 18/5/78

Conditional Permission for Development

The London Borough of Lambeth hereby permits under the above mentioned Act and the Orders made thereunder the development referred to in the under mentioned schedule subject to the conditions set out therein and in accordance with the plans submitted, save in so far as may otherwise be required by the said conditions.

In accordance with the statutory provisions; your attention is drawn to the Statement of Applicant's Rights endorsed hereon.

Schedule

Date of application: 6th August, 1976.

Plans submitted: Regd. No. 22928/7 (Applicant's plan No. 76/7.07)

Development: Installation of a new shopfront at 410/410A Streatham High Road, Lambeth.

Condition:

The development to which this permission relates must be begun not later than the expiration of five years from the date hereof.

Reason:

To comply with Section 41 of the Town and Country Planning Act 1971.

Edward Hollamby OBE FRIBA MTPI DipTP(Lond)
Director of Development

Ref: DC/AC/JL/EDC/25093

WA / 1149 / -
LAMBETH

7th January, 1971

London Borough of Lambeth
138-146 Clapham Park Road
London SW4

01-274 7722 extension 82

Dear Sir(s),

**Town and Country Planning Acts, 1962 to 1968 and Orders made thereunder
London Government Act 1963****Permission for Development**

The London Borough of Lambeth hereby permits under the above mentioned Acts and the Orders made thereunder the development referred to in the schedule below and in accordance with the plans submitted.

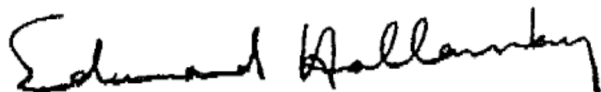
The permission is subject to due compliance with any local Acts, regulations, building by-laws and general statutory provisions in force in the area and nothing herein shall be regarded as dispensing with such compliance or be deemed to be a consent by the Council thereunder.

Your particular attention is drawn to the provisions of the London Building Acts, 1930 - 1939 and the by-laws in force thereunder which must be complied with to the satisfaction of the District Surveyor, 365, Brixton Road, SW9.

The Council's permission does not modify or affect any personal or restrictive covenants, easements, etc., applying to or affecting the land or the rights of any person entitled to the benefits thereof.

ScheduleDate of application: **13th November, 1970**Plans submitted: **Regd. No. 25093/1. Applicant's plan No. 2730**Development: **Installation of a new shopfront at 410 Streatham High Road, Lambeth.**

Yours faithfully,



Director of Development