

Appendix B

Summary of Representations

Representations in support of confirmation of the Direction

120 signed copies of a letter (from 107 addresses)

86 of those sending a letter were also signatories on a petition containing a total of 160 signatures (representing 114 addresses)

The letter listed the following issues in support of confirming the Direction:

- *The original 11/00725/TELGDO application was fundamentally flawed and there is sufficient doubt to question the validity of the application and appeal decision;*
- *Any further upgrading of the mast would further increase its visual impact and impact on amenity which would lead to further concern regarding highway safety for both pedestrians and drivers;*
- *The site is located along the main entrance to the Hadrian Park Estate, and is close to Hadrian Park Primary School. As such, Addington Drive is a busy route for buses and other traffic and there is concern over the impact the existing mast and cabinet has on the safety of school children accessing Hadrian Park Primary School. Any further upgrading of the mast could increase the risk to highway safety;*
- *The mast and cabinets are in a totally unacceptable location;*
- *The impact to public health caused by the mast should be taken into account as some residents live within 9 metres of the site.*

1 letter from resident of Carnforth Close in support:

The letter listed the following issues in support of confirming the Direction:

- *Research shows that telephone masts can be a potential hazard to residents;*
- *Masts should not be located close to homes and schools;*
- *Over 500 studies into the impact of electromagnetic radiation on public health show that consistent exposure can have a devastating effect on health and on the development of children;*
- *4G poses a greater risk as 4G penetrates further than 3G, increasing peoples exposure to electromagnetic radiation;*
- *Residents fear for their health, and as impact on health and the fear caused by phone masts is in case law, this should mean that this can be used as a planning consideration;*
- *Planning appeal decision by the Planning inspectorate was fatally flawed as it did not take into account the impact that the mast has had on the fears and the potential health risks of the residents;*
- *Object to the installation of any further equipment on the site as this would ruin the visual amenity of the streetscape, in an area where people take great pride in their homes and gardens;*
- *Local resident has lost amenity due to the site of the mast and fears the impact to their health. This has led to the resident not wanting his grandchild to use the bedroom at the front of the house;*
- *Residents, including the elderly, now divert away from the crossing point when accessing the local amenities of the post box and bus stop. Any additional apparatus would make this worse;*
- *Residents are concerned about their properties becoming devalued, and this is causing stress and anxiety;*

- *Engineers working on the site, when asked, would not want a mast like this one outside their properties;*
- *The mast has a significant and depressing effect on the residents who have to see it every day;*
- *Appreciation that some residents who live further away from the mast are less likely to object and also that some residents who have not seen the research into the health impact of the proposed mast would object to the Article 4 (1) direction feeling that the mast is essential for mobile phone coverage;*
- *The operators own 4G coverage maps show that there is already complete coverage of Hadrian Park and therefore is no need for additional cabinets;*
- *Although the Council could be liable to pay compensation to the operators, the Council should put the needs of the residents before the multinational companies.*
- *Full support for confirming the Article 4(1) direction.*

Representation from planning consultant advising Hadrian Park Residents' Action Group

The planning consultant working on behalf of the Hadrian Park Residents' Action Group made a number of observations:

- *The main problem for the Council will be in trying to estimate what compensation payment they might incur. It may be that the company is "trying it on" by the reference to the 'substantial six figure sum' but it is not known how the Council would go about assessing what figure might be realistic;*
- *Reference is made to the operator's coverage map but the operator has previously refuted what the map appears to show, by saying that none of the alternative sites suggested by the Council or the Action Group would provide the required coverage. The Council has implied that it did not have the expertise to challenge this;*
- *Article 4 is necessary to protect the amenity of local residents and it is suggested that the Council seeks expert advice on the 4G coverage point and on what level of compensation might follow.*

Additional comments from the Action Group

Other comments received from the Hadrian Park Residents' Action Group:

- *Currently the coverage map for Vodafone and Telefonica UK shows that there is coverage indoors and outdoors provided by 4G in this area;*
- *Vodafone show deficiency of 3G coverage in the area surrounding Addington Drive;*
- *How could the operator argue loss of business if, as is shown on both operators website, that there is existing 4G coverage on in the area?;*

Hadrian Park Residents' Action Group response to the representation made by the operator.

The Group advise that the comments below have been prepared with support from Mobile Telecommunications Experts, Independent Planning Consultants and Legal Experts:

Action Group Response - Government Guidance and National Policy

- *The Group contend that Government Guidance and Policy Framework is exactly that, guidelines for planning policies and how they are expected to be applied;*
- *The Group refer to NPPF which states that "Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of an area";*
- *The Group refer to other government advice as to information which should support an application for telecommunications development "... including the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or*

college or within a statutory safeguarding zone. Any evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure”;

- The Group does not believe that the necessary evidence exists to support the phone operator's view that it has worked within the NPPF guidelines in relation to the mast application on Addington Drive.
- The proposed Article 4 direction is therefore not fundamentally flawed as stated by the phone operator as it will prevent further visual amenity on the site.
- The Group reports that Northumbria Police have described the mast site as a “concern to pedestrians and drivers in relation to highway safety and of much greater concern if there were to be any further development to the site”.
- They note that Hadrian Park Primary School was not consulted regarding the phone mast application.
- They comment that the phone operator can't simply “cherry pick” the various guidelines and frameworks to suit their particular purpose. Every application has to be viewed on its own particular merits with an anomalies and variations considered on a case by case situation.

Action Group Response - Wider Impact of the proposed direction:

- The Group note the phone company's comment that there is an existing, lawful, telecommunications pole and equipment cabinet which was recommended for approval by the professional officers, but overturned by the Planning Committee;
- The Group refer to comprehensive evidence that the original application and subsequent appeal were fundamentally flawed, breached numerous policies, procedures and protocols and in the view of our legal expert could be subject to legal challenge. This includes the absence of evidence to prove that the Planning Inspector was at the correct site and an error made in identifying the site as one with access issues, triggering an accompanied visit. They consider the appeal visit should have been postponed as the Inspector could not have been sure that he was at the correct site.

Action Group Response - Precedent

- The phone operator state that, “the Council must provide a strong justification that the exercise of permitted development rights would harm local amenity or the well-being of the area”. They further state that, “there is no strong justification whatsoever for the proposed Article 4 direction and there is no evidence whatsoever that the exercise of permitted development rights would harm either the local amenity or the wellbeing of the area”.
- The Group disagree strongly with these statements and note the Council's response of 20th June 2013 that “the additional equipment is not installed as it would introduce further clutter in a location where the existing telecommunications equipment is highly conspicuous and detracts from the visual amenity of the locality and nearby residents. These are not considered to be suitable conditions to alleviate these concerns”.
- The Group do not agree that to issue an Article 4 direction in this instance would be a dangerous precedent as it relates to a very small parcel of land, is quite specific and does not seek a blanket direction on any other site within the Hadrian Park area or indeed a wider area.
- Local amenity and the well-being of the area would be hugely affected by any further introduction of additional cabinets on the Addington Drive site.

Action Group Response - Council's Compensation Liability

- The phone operator state, “There could be a very real and substantial compensation liability for the council which can include loss of profit, likely to run to a substantial 6 figure sum.”

- *The Group's mobile communications expert and a legal expert have explored what compensation, if any, the Council could be liable for and how the phone company would pursue any such compensation.*
- *The Group advise that firstly the phone company would have to evidence how they would be disadvantaged commercially and demonstrate how and what any loss would be.*
- *02/Vodafone operate on an 800MHz Spectrum giving them an operational coverage area for 3G of between 1 and 5 miles depending on line of site , terrain etc. 4G has a much better spectrum efficiency 7 times greater than 3G, between 7 and 35 miles. The site at Addington Drive is the only site in North Tyneside that still operates on 3G only, as all other existing sites have been upgraded to 4G. Consequently all of the mast sites within a 35 mile radius of Addington Drive would cover this area and far beyond with 4G coverage. Sites including Angle Terrace, Billy Mill, The Coast Road, Tyne Met College, Norham Road, Royal Quays, all located well within the spectrum of 4G coverage.*
- *The Group have undertaken their own research testing the 4G signal in every area of Hadrian Park with 4G handsets on the 02/Vodafone network, as well as asking residents in various parts of Hadrian Park about their 4G coverage. In all cases there was a very strong, consistent 4G signal right across Hadrian Park on the 02/Vodafone network.*
- *The phone operator has argued that resilience has to be built into their network to guard against any potential mast operating failure and to give the very best coverage at all times to its customers.*
- *The Group considers there can be no doubt that currently there is more than sufficient coverage of 4G to more than deliver strong, consistent service to their customers not only in Hadrian Park, but right across North Tyneside. Even at peak demand and taking into consideration increased customer volume, the current 02/Vodafone network has North Tyneside suffocated by a massive blanket of 4G coverage*
- *The Group consider that any potential legal claim by the phone operator would have to identify where any potential loss would be, and how that loss would affect its customers and that any claim made against the Council by the phone operator would have little or no chance of being successful as any actual or potential loss could not be attributed to any Article 4 direction on the site at Addington Drive.*

Action Group Response - Conclusion

- *The phone company state in their conclusion that issuing an Article 4 direction would be "contrary to national planning policy and guidance" and would be "fundamentally flawed".*
- *The Group doesn't agree and have detailed above how issuing an Article 4 direction would be neither contrary to national planning policy and guidance nor fundamentally flawed. The Group states that they have countered the threat of potential compensation from the phone company by clearly evidencing that there is no identified loss or disadvantage from issuing the Article 4 that could be claimed for. The Article 4 direction would take away the threat of further works being carried out on this site.*
- *With 5G on the horizon, it's reasonable to expect further upgrading and potentially more equipment and cabinets on not only the Addington Drive site, but possibly a number of other sites in the Borough.*
- *The Group would like to ask Cabinet to maintain the Council's objection to any further work on the Addington Drive site and issue an Article 4 direction in this instance. The Council has an obligation to keep its residents safe and, with residents living only 8 yards from this site and a primary school only 180 yards away, you have a duty to protect the amenity of the people of Hadrian Park. Hadrian Park has over 2,500 properties within it and a new housing development currently being built. It has only*

one road in and out of the estate, Addington Drive. This very busy road currently has located on it, in our view an illegal mobile phone mast. Further works to this site will significantly increase the danger to residents and drivers using Addington Drive and would hope that Cabinet would act in support of the many, many residents who will be adversely affected by any further works to this site.

Representations opposing the confirmation of the Direction

Representation made by Cornerstone Telecommunications Infrastructure Ltd (CTIL) on behalf of the telecommunications operators on site (Vodafone Limited and Telefonica UK Limited).

The operators' response opposing the confirming the Direction is:

- *NPPF sets out that advanced, high quality communications infrastructure is essential to sustainable economic growth. They refer to Para 44 of the NPPF which advises LPAs against a ban on new telecommunications development in certain areas and use of blanket Article 4 directions over a wide area or a wide range of telecommunications development or insistence on minimum distances between new telecommunications development and existing development;*
- *This clear advice in the NPPF is reinforced by the National Planning Practice Guidance (NPPG) which states that Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified. Adding to this the NPPG is clear that there should be a particularly strong justification for the withdrawal of permitted development rights relating to, amongst others, cases where prior approval powers are available to control permitted development. Class A of Part 24 of Schedule 2 of the Order requires the prior approval of the local planning authority in certain circumstances;*
- *The rationale for the Article 4 direction set out in the previous cabinet report is questionable, and in direct conflict with national policy and guidance;*
- *The report rightly recognises that there is no justification on either health grounds nor highway safety grounds to support the proposed Article 4 direction and instead simply refers to a non-specific visual impact of additional telecommunications equipment. The report simply states that "additional equipment erected at this site would further detract from the visual amenity of nearby residents..." There is no detail of what those perceived impacts may be, what impacts they may have on residents' amenity or the amenity of the wider street scene. The perceived non-specific visual impact referred to in the report in no way justifies the making of the Article 4 direction. The proposed Article 4 direction is therefore fundamentally flawed;*
- *The original application was recommended for approval by planning officers, but recommended for refusal at planning committee. It was granted at subsequent appeal.*
- *The sole reason for the Council proposing the Article 4 direction is to prohibit the Code Operator from utilising its permitted development rights to install one small additional cabinet (less than 2.5 cubic metres) adjacent to the existing pole. The installation of the cabinet will allow a significant upgrade to the existing services to the community including the provision of 4G services. The Article would limit fixed broadband operators from using the site without planning consent;*
- *The wider impact of the Article 4 direction would be disproportionate to the concerns of the residents and what the residents are trying to address;*
- *The particular area specified in the proposed Article 4 direction is no different from any other part of the estate, or indeed from any other modern housing estate, with*

- various street furniture, post boxes, bus stops etc, as recognised by the Planning Inspector when determining the appeal for the original development;*
- *There is no strong justification whatsoever for the proposed Article 4 direction and there is no evidence whatsoever that the exercise of permitted development rights would harm either the local amenity or the wellbeing of the area;*
 - *If the proposed Article 4 direction is confirmed in this location then this would set a dangerous precedent for similar Article 4 directions within the estate or indeed across the wider area;*
 - *The report outlines that there would be a very real and substantial compensation liability, Due to commercial confidentiality it would not be appropriate to provide a detailed breakdown of the cost liability at this time, but the figure would likely be a six figure sum.*
 - *The Council needs to balance this very real potential liability against the perceived wider public interest and the Council's fiduciary duty;*
 - *Overall implementing an Article 4 direction would be disproportionate and contrary to national policy and guidance, as well as it being fundamentally flawed as there is no justification or compelling reason for making the Article 4 direction;*
 - *The Council also needs to consider the wider implications of the proposed Article 4 direction – fundamental to which is the dangerous precedent it could set and the extensive compensation payments it could be liable for.*

A representative of the operator in response to the Action Group's specific issues about the extent of existing coverage has advised that:

- *The maps do not indicate the capacity demands of the area and the likely download speeds achieved through 4G services;*
- *Customers have expectations of superfast mobile broadband speeds from 4G that will provide faster access to content rich services;*
- *A new 4G site is required at the existing base station on Addington Drive to ensure that there is sufficient 4G capacity across the estate for both Vodafone and Telefonica customers, given the dense urban capacity requirements of the area, and will also ensure that the 4G access and download speeds experienced by customers are optimised;*
- *It is also important to note that the new 4G site will also be providing a certain level of resilience to the network so that if another site fails the estate site will still have access to 4G services;*
- *The recent upgrade at the site was to improve Vodafone 3G coverage. At the moment, the Vodafone website is still showing a deficiency in the 3G coverage across the Estate but this will soon be updated.*

Three representations from a resident of Agricola Gardens opposing the confirmation of the Direction:

- *If this development is restricted you would have to restrict all similar sites. There is a need for a uniformed approach across North Tyneside. This would set a precedent for other sites;*
- *We can't stand in the way of technology which would improve the welfare of the area;*
- *Concern over NIMBYism being the cause of the support for the Article 4;*
- *Would be a backward step;*
- *Move on, move forward and let's have better phone coverage in the area;*
- *There can't be one rule for one area and a different one for another area;*
- *The proposed development is only on a grass verge owned by the local authority. It's not a 'Green Belt' development or a Fracking application - the actions proposed here are disproportionate and unfair;*

Another resident made a further representation stating no to the Article 4 direction, but gave no comment.

One anonymous comment opposing the confirmation of the Direction

- *The campaign has caused damage to the grass verge due to residents parking on there, and costs have been incurred as the police have had to be present; both have cost implications for the tax payer;*
- *The cost to the local tax payer should be taken into account;*
- *These restrictions would set a precedent for other areas;*
- *The banners on the gable ends of buildings are illegal. But it is time to move on from this protest;*
- *Stop wasting tax payers' money.*

Online representations opposing the confirmation of the Direction

A further 16 representations (including one from a resident in Ashburn Road) giving no comment were made online in opposition to the Article 4 Direction, with one further representation outlining opposition but also partial agreement with the Article 4(1), but again giving no comment.

Other representations

BT Openreach

Note that they have existing plant in place which is just outside the area marked on the Map. The response also notes that as far as they are aware BT Openreach are not planning any developments in this area as the Super-Fast Broadband is already in place. There are two Cabinets on the grass outside 33 Ashburn Road, the other ones are Virgin Media.

Secretary of State for Communities and Local Government

In accordance with the legislative requirements the Secretary of State was notified that the Direction had been made and provided with an opportunity to comment at this stage. He has advised that he has no comments.