

Daphney.

As per the original application under consideration, and the detailed letter explaining why we are looking to have the conditions removed, I would suggest that the application is determined based on the submission and removal of the two conditions.

As stated in the supporting letter, condition 2 of the planning permission does not meet the 6 tests as described in paragraphs 14-42 of Circular 11/1995: *Use of Conditions in Planning Permissions*. Additionally, it is still questionable as to whether this condition is necessary overall.

As it stands, the Council could not enforce the condition attached to the permission, and as such it should be removed from the planning permission.

While it is unfortunate that the original tree was damaged, it is likely that it would have required to be removed in any case in order to provide adequate network coverage, and as not covered by any TPO this could have been done with no involvement from the LPA. This could be done at any time by the landowner. Other than providing an element of screening to the compound, the trees offer no other purpose and have no, or little, contribution to the overall character of the area.

As stated, the reliance of these trees for screening the mast cannot therefore be assured, and as such should not have been imposed on any planning permission in respect to a reason for the approval for siting and design.

Additionally, Condition 1 of the permission should not have been attached to the planning permission, and is unnecessary as the development had already been completed on site. The only reason for this condition would have been to ensure compliance with the site plan which indicates (incorrectly) that a 9m tree could be planted in the space identified on the plan as requested by the Council.

As previously indicated, this application was submitted in order to give the Council the opportunity to formally reconsider this matter and make a determination on it, prior to any appeal being made by the applicant on the permission. This application must therefore be determined based on the facts that the two conditions attached to the permission should be removed from the permission, particularly as condition 2 would in no way meet with the 6 tests in applying planning conditions to permissions, by granting of this application under Section 73 of the Act.

Kind Regards

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