

**RE: TELECOMMUNICATIONS MAST AND EQUIPMENT AT  
THE CARDROME, UPPER RAINHAM ROAD, HORNCHURCH**

**IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY**

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

**ENFORCEMENT NOTICE**

- TO:**
1. The Owner of the said land
  2. The Occupier of the said land
  3. Company Secretary Rom Skates Limited, Rom Skate Park,  
Upper Rainham Road, Hornchurch Essex
  4. Company Secretary Rowley Cardrome Limited, Upper Rainham  
Road, Hornchurch Essex
  5. The Company Secretary of T-Mobile UK Ltd, Hatfield Business,  
Park, Hatfield, Herts, AL10 9BW
  6. Stappard Howes, Meriot House, Heriot Road, Chertsey, KT16  
9DT

**ISSUED BY:** London Borough of Havering

1. **THIS IS A FORMAL NOTICE** which is issued by the Council because it appears to the Council that there has been a breach of planning control, under Section 171A(1)(a) 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 other material planning considerations.

2. **THE LAND AFFECTED**

The land at Cardrome, Upper Rainham Road, Hornchurch, Essex shown hatched black on the attached plan.

3. **THE BREACH OF PLANNING CONTROL ALLEGED**

The installation of telecommunications mast and equipment was ostensibly undertaken under the telecommunications installation emergency works under Part 24 of the Town and Country (General Permitted Development Order) 1995 Class A(b). That allows "...the use in an emergency for a period not exceeding six months to station and operate telecommunication apparatus required for the replacement of unserviceable telecommunication structures on the land for the purposes of that use..". Following the expiry of that six month period the telecommunications operator made a planning

application for the retention of the telecommunications mast and equipment, which was refused on 14<sup>th</sup> July 2006.

Without planning permission the construction of (a) a plinth base and (b) the installation of telecommunications mast and equipment on the area cross hatched black.

#### 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 erection of a telecommunications mast and equipment in this location is by reason of siting and appearance, harmful to the surrounding area.

In making its decision to issue this Notice the Council considered that the unauthorised development is contrary to the following policies of the Havering Unitary Development Plan policies ENV1, ENV12 and GRB2.

#### 5. WHAT YOU ARE REQUIRED TO DO

- (i) Remove all telecommunication apparatus from the land identified on the attached plan.

Time for compliance: one month from the effective date of this notice.

- (ii) Remove from the land identified on the attached plan all machinery, rubble, installation and apparatus brought onto the land for the purpose of telecommunication.

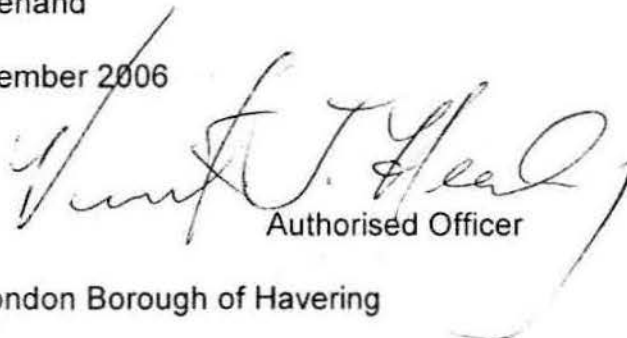
Time for compliance: one month from the effective date of this notice

#### 6. WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 8th December 2006, unless an appeal is made against it beforehand

Dated: 2<sup>nd</sup> November 2006

Signed:



Authorised Officer

On behalf of London Borough of Havering  
Town Hall  
Main Road  
Romford RM1 3BD

## **YOUR RIGHT OF APPEAL**

You can appeal against this Enforcement Notice to the Secretary of State by the 8th December 2006. Further details are given in the attached explanatory note.

## **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against this Enforcement Notice, it will take effect on 8th December 2006 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 specified in the Notice.

**FAILURE TO COMPLY WITH AN ENFORCEMENT NOTICE WHICH HAS TAKEN EFFECT CAN RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.**

## EXPLANATORY NOTES

### **STATUTORY PROVISIONS**

A summary of Sections 171A, 171B and 172 to 177 of the Town and Country Planning Act 1990 (as amended) is enclosed with this Notice.

### **YOUR RIGHT OF APPEAL**

You can appeal against this Notice, but any appeal must be in writing and received, or posted (with the postage paid and properly addressed) in time to be received in the ordinary course of the post, by the Secretary of State before 8th December 2006. The enclosed booklet "Enforcement Appeals - A guide to Procedure" sets out your rights. Read it carefully. If you appeal you should use the enclosed appeal forms. Two copies are for you to send to the Secretary of State if you decide to appeal. The other is for you to keep as a duplicate for your own records. You should also send the Secretary of State a copy of the Enforcement Notice.

### **GROUNDINGS OF APPEAL**

The grounds of appeal are set out in Section 174 of the Town and Country Planning Act 1991 and are also set out on page X the enclosed appeal forms.

### **PLANNING APPLICATION FEE**

Should wish to appeal on ground (a) - that planning permission should be granted for the unauthorised use - then a fee of £265 is payable both to the Secretary of State and to the Council. If the fees are not paid then that ground of appeal will not be valid.

### **STATEMENT ON GROUNDINGS OF APPEAL**

You must submit to the Secretary of State, either when giving notice of appeal or within 14 days from the date on which the Secretary of State sends him a notice so requiring him, 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.

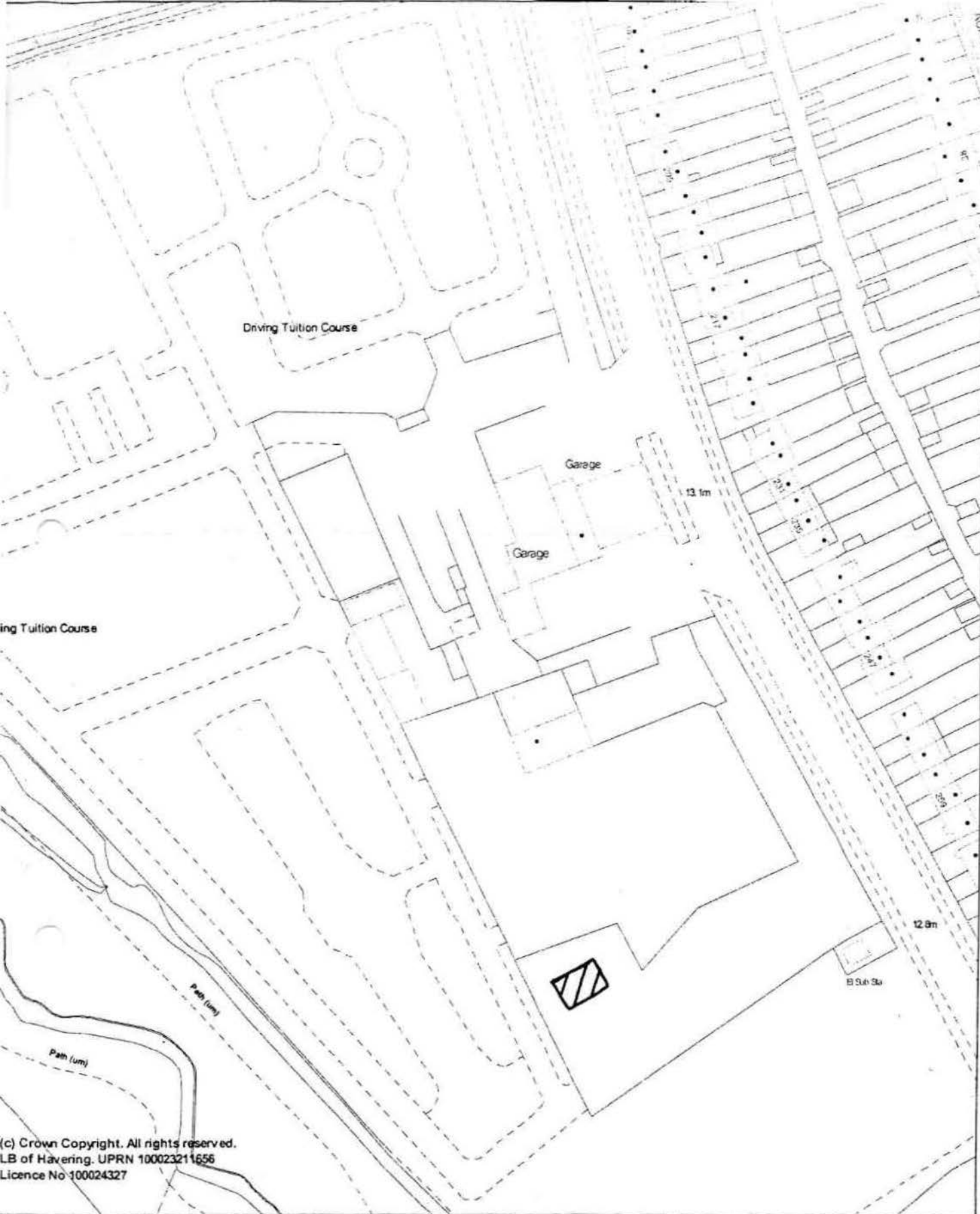
### **RECIPIENTS OF THE ENFORCEMENT NOTICE**

The names and addresses of all the persons on whom the Enforcement Notice has been served are:


- TO:
1. The Owner of the said land
  2. The Occupier of the said land



3. Company Secretary Rom Skates Limited, Rom Skate Park, Upper Rainham Road, Hornchurch Essex
4. Company Secretary Rowley Cardrome Limited, Upper Rainham Road, Hornchurch Essex
5. The Company Secretary of T-Mobile UK Ltd, Hatfield Business, Park, Hatfield, Herts, AL10 9BW
6. Stappard Howes, Meriot House, Heriot Road, Chertsey, KT16 9DT



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 Town Hall, Main Road  
 Romford, RM1 3BD  
 Tel: 01708 434343

**nlp**  
The National  
 Land & Property Gazetteer

**NSG**  
NATIONAL  
 STREET  
 GAZETTEER

**OS** Ordnance Survey

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 London Borough of Havering 100024327

BUCS 1527MK



# Appeal Decision

Site visit made on 24 July 2007

by **D N Donaldson**

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

The Planning Inspectorate  
4/09 Kite Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN  
☎ 0117 372 6372  
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date

**08 AUG 2007**

**Appeal Ref: APP/B5480/C/06/2033027**

**Site address: Land at Cardrome, Upper Rainham Road, Hornchurch, RM12 4EU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991, against Havering London Borough Council's enforcement notice.
- The appeal is made by T-Mobile UK Ltd.
- The Council's reference is 1527.ENF/610/05/HY.
- The notice was issued on 2 November 2006.
- The breach of planning control alleged in the notice: without planning permission, the construction of (a) a plinth base and (b) the installation of telecommunications mast and equipment on the area cross-hatched black.
- The requirements of the notice are:
  - (i) Remove all telecommunication apparatus from the land identified on the attached plan.
  - (ii) Remove from the land identified on the attached plan all machinery, rubble, installation and apparatus brought on to the land for the purpose of telecommunication.
- The period for compliance with the requirements is the period expiring on 8 December 2006.
- The appeal was made on grounds (a) and (g) in section 174(2) of the 1990 Act, as amended by the 1990 Act.

**Summary of Decision: The appeal is dismissed; the enforcement notice is upheld; and planning permission is refused for the development enforced against.**

## The appeal site's recent planning history

1. My attention has been drawn to two planning appeal decisions, taken by other (different) Planning Inspectors, involving the installation of telecommunications equipment at the appeal site, as follows:

- (1) 14 December 2006: an Inspector's appeal decision (reference No. APP/B5480/A/06/2021940) granted conditional planning permission for the installation of a 15m. slimline telecommunications monopole, antennae, equipment cabin and development ancillary thereto (application reference No. M0024.06 dated 5 June 2006).

(It was pointed out to me during the inspection that this permission had been implemented at the appeal site.)

- (2) 25 January 2007: an Inspector's appeal decision (reference No. APP/B5480/A/06/2027377) granted conditional planning permission for a 24.25m telecommunications mast, equipment and ancillary development (application reference No. P0951.06 dated 18 May 2006).

The condition imposed on the permission is as follows:  
'Notwithstanding the description of development, the use hereby



permitted shall be discontinued and the land restored to its former condition on or before 3 months of the date of this permission, or such other date to be agreed in writing with the local planning authority, in accordance with a scheme of work submitted to and approved in writing by the local planning authority'.

(It was pointed out to me during the inspection that this permission related to the taller of the two telecommunications masts located on the appeal site at that date.)

**The appeal on ground (a) and deemed planning application**

2. It is common ground that the appeal site is within the Metropolitan Green Belt. The appellant was required to remove their former base station from a local Primary School when the lease expired. Suitable replacement sites were sought, including submission of four planning applications (one of which has since resulted in the grant of permission, on appeal, recorded in paragraph 1 (1) above). During the six-month emergency period granted to Code Operators in England, by virtue of the provisions of Class A (b) in Part 24 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO), it became clear to the appellant that the duration of the emergency period would not suffice to maintain the required level of service in this area. Retention of the installation for a period not exceeding two years was therefore sought.
3. The relevant Government advice in PPG2 (entitled 'Green Belts') clearly states that very special circumstances are required to outweigh the harm caused by inappropriate development in the Green Belt. This guidance is broadly followed in Policy GRB2 of the adopted (March 1993) Havering Unitary Development Plan (the UDP). In common with the previous Inspectors who determined the planning appeals rehearsed in paragraph 1 above, I acknowledge that the requirement to provide a telecommunications service in this locality does amount to very special circumstances until permitted installation can be brought into operation. In the meantime, I consider that the requirement outweighs the harm caused to the Green Belt by what I regard as the inappropriate development involved in installing this 24.25m tall telecommunications mast on a fairly prominent site, towards the rear of the appellant's premises, where it would harm the openness of the Green Belt. I also consider it was reasonable, in all the circumstances then obtaining at the appeal site, for the Inspector's appeal decision issued on 25 January 2007 to limit the duration of the permission to 25 April 2007, or such longer period as the Council agreed. However, it seems to me that, in view of the harm being caused to the Green Belt by this inappropriate development, there is now no further justification for granting planning permission for the development enforced against because the appellant has been able, in practice, to provide a suitable alternative mast on the appeals site. Accordingly, the appeal on ground (a) fails and planning permission will not be granted on the deemed application.

**The appeal on ground (g)**

4. In support of the appeal on ground (g), it is submitted on the appellant's behalf that a compliance period of 24 months would be more appropriate.



5. During the inspection the appellant's representative explained that there had been unanticipated delay in linking the replacement mast to the BT network, but this problem had now been overcome by means of a radio link. The appellant's intention was to remove the mast enforced against within a fortnight from 23 July. The purpose of an appeal on ground (g) is to represent that a longer compliance period should reasonably be allowed to comply with a notice's requirements. In this case, it seems to me reasonable to expect the requirements in paragraph 5 of the notice to be complied with by 6 August, on the appellant's latest assessment. I therefore see no justification for varying the one-month compliance period. If any longer period is justified in the event, the provisions of section 173A (1) (b) of the 1990 Act would enable the Council to consider whether to allow it. The appeal on ground (g) therefore fails.
6. I have taken into account all the other matters raised in the representations. However, none of these matters outweighs the considerations leading to my conclusions.

**Formal Decision**

7. I hereby dismiss this appeal; direct that the enforcement notice issued on 2 November 2006 be upheld; and refuse to grant planning permission on the deemed application under section 177(5) of the 1990 Act.

*DN Donaldson*

INSPECTOR