

Delegated Report

Telecommunications Determination (PRIOR)

Application No:	20230750
Location:	Communication Station, Hall Road, Northfleet, Gravesend, Kent, DA11 8AJ
Description:	Proposed 15m 5G telecoms installation: H3G street pole and additional equipment cabinets.
Applicant:	Mr Cameron Wilson, Cignal Infrastructure Limited UK
Site Visit:	04/09/2023

Site Description

The site is located on Hall Road within the wider urban area of Northfleet, on the back edge of the footway in front of a grass verge. Hall Road is a busy arterial route out of the town centre towards the A2 strategic road network. As depicted in the photos below, the immediate site has an open character, with some trees and streetlamps nearby.



Submitted Documents/Plans

- Application Form - dated 08/08/2022;
- Supplementary Information - Developers Notice (served to GBC / KCC Highways) (dated 08/08/2022);
- Supplementary Information - ICNIRP Declaration (dated 02/08/2022);
- Supplementary Information - Department for Digital, Culture, Media & Sport - Collaborating for Digital Connectivity;
- Supplementary Information - Mobile UK 5G Briefing;
- Supplementary Information - Site Specific Supplementary Information and Planning Justification;
- Drawing no. GVM20859_GVM080_85519_DA0566_GA - Rev. A – 002 – Site Location Plan;
- Drawing no. GVM20859_GVM080_85519_DA0566_GA - Rev. A – 215 – Proposed Site Plan;
- Drawing no. GVM20859_GVM080_85519_DA0566_GA - Rev. A – 265 – Proposed Site Elevation.

Relevant Planning History

No relevant planning history.

Development Plan

Gravesham Local Plan Core Strategy (September 2014):

- CS01 - Sustainable Development
- CS02 - Scale & Distribution of Development
- CS07 - Economy, Employment and Skills
- CS10 - Physical and Social Infrastructure
- CS12 - Green Infrastructure
- CS18 - Climate Change
- CS19 - Development & Design Principles

Paragraph 33 of the NPPF (2021) sets out that policies within adopted local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Such reviews are also a legal requirement as set out in Regulation 10A of the Town and Country Planning (Local Planning) England Regulations 2012.

The Council undertook such a review in September 2019 and found that the adopted Local Plan Core Strategy is in need of a partial review in terms of Policy CS02, due to the increased need for housing since the Local Plan Core Strategy was adopted and the need to ensure that a sufficient land supply exists to meet this need. Whilst saved policies from the Local Plan 1st Review (1994) generally conform with the NPPF (2021), the Council will also seek to replace these.

National Planning Policy Framework (2021)

- Section 2 - Achieving Sustainable Development
- Section 10 - Supporting High Quality Communications
- Section 12 - Achieving Well-Designed Places
- Section 15 - Conserving and Enhancing the Natural Environment

Consultations, Publicity and Representations

External Consultees

Kent County Council Highways - I have the following comments to make with respect to highway matters :-

I refer to the above planning application and having considered the development proposals and the effect on the highway network, raise no objection on behalf of the local highway authority.

Please Note: This response is provided by the Transport & Development Planning Team and is intended only to represent the views of that team. The Transport & Development Planning team does not authorise any of the stats work, or issue permits and licences, as this is managed by the Streetworks team, and they may have other comments to make in respect to considering the location of these works. The construction activities for the crane would also be considered under the separate Streetworks permit process.

Informative: It is important to note that planning permission does not convey any approval to carry out works on or affecting the public highway.

Any changes to or affecting the public highway in Kent require the formal agreement of the Highway Authority, Kent County Council (KCC), and it should not be assumed that this will be a given because planning permission has been granted. For this reason, anyone considering works which may affect the public highway, including any highway-owned street furniture, is advised to engage with KCC Highways and Transportation at an early stage in the design process.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the public highway. Some of this highway land is owned by Kent County Council whilst some is owned by third party owners. Irrespective of the ownership, this land may have highway rights over the topsoil.

Works on private land may also affect the public highway. These include works to cellars, to retaining walls which support the highway or land above the highway, and to balconies, signs or other structures which project over the highway. Such works also require the approval of the Highway Authority.

Kent County Council has now introduced a formal technical approval process for new or altered highway assets, with the aim of improving future maintainability. This process applies to all development works affecting the public highway other than applications for vehicle crossings, which are covered by a separate approval process.

Should the development be approved by the Planning Authority, it is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents have been obtained and that the limits of the highway boundary have been clearly established, since failure to do so may result in enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under the relevant legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

Guidance for applicants, including information about how to clarify the highway boundary and links to application forms for vehicular crossings and other highway matters, may be found on Kent County Council's website: <https://www.kent.gov.uk/roads-and-travel/highway-permits-and-licences/highways-permissions-and-technical-guidance>. Alternatively, KCC Highways and Transportation may be contacted by telephone: 03000 418181

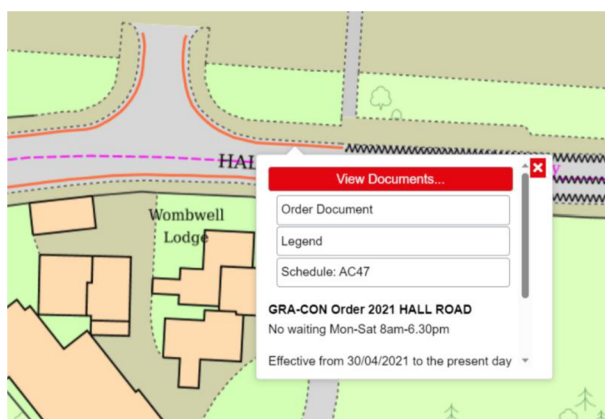
Internal Consultees

GBC Highways Officer - I have no objections the footway in this area is wide and the cabinets will be set at the back edge.

The road marking associated with the adjacent Pelican Crossing prohibit maintenance vehicles parking immediately adjacent to the equipment, and whilst they may be able to park on the nearby waiting restrictions, subject to the Traffic Regulation Order, this is not ideal as it would restrict visibility of vehicles emerging from the leisure centre. It is suggested the applicant should get the permission of the landowner of the adjacent car park to park their maintenance vehicles in there when necessary and not obstruct the public highway. The alternative would be the applicant's staff/contractors use the lay-by further south on Hall Road.

Note the following extract from the TRO, (d) (v) which would permit maintenance vehicles to park on the waiting restrictions if there is nowhere else that is convenient which is an argument in itself on what is and is not convenient.

- thereon;
- (d) the Vehicle, if it cannot conveniently be used for such purpose in any other street or outside of Restricted Hours, to be used in connection with any of the following operations:
- (i) building or demolition operations;
 - (ii) the removal of any obstruction to traffic;
 - (iii) the maintenance, improvement, or reconstruction of the any part of the Restricted Road;
 - (iv) cleansing or lighting of any street; or
 - (v) the laying, erection, alteration or repair in or adjacent to any street of any sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, or of any telecommunications apparatus, or the placing, maintenance or removal of any Traffic Sign;



<https://kent.traffweb.app/traffweb/1/TrafficOrders>

Local Ward Councillors - No comment received.

Neighbouring properties

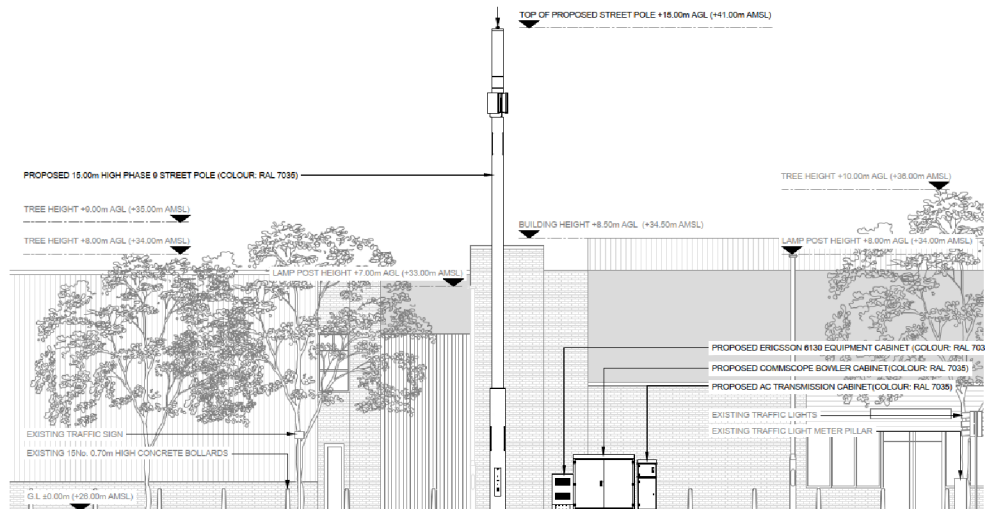
A notice was displayed on site 10th August 2023.

In addition, three surrounding properties were consulted and no representation was received. The overall consultation period expired 21st August 2023.

Officer's Assessment

Description of the Development

This application proposes the installation of a 15m high monopole and additional ground-based equipment cabinets.



Analysis

The development has been submitted under the terms of the Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended.). It is not an application for planning permission. Development is permitted under Class A for:

Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of -

- (a) The installation, alteration or replacement of any electronic communications apparatus,*
- (b) The use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or*
- (c) Development ancillary to radio equipment housing.*

Paragraph A.1 (1) (a) requires that for permitted development to apply for ground-based apparatus all electronic communication apparatus should not exceed a height of 15 above ground level. There is a limit of 25 metres above ground level on unprotected land for the installation of a mast (excluding antenna) under Paragraph A.1 (1) (c), a mast being interpreted as a radio mast or radio tower (paragraph A.4)

Under paragraph A.1 (7) there is a limitation on the ground base area of 1.5m² for masts, antenna or radio equipment housing.

Condition A.2 (3) (c) indicates that development on unprotected land that consists of the installation of a mast (of any size) is subject to a requirement for prior approval under paragraph A.3.

Under paragraph A.3 (4) there is a requirement that a determination should be sought as to whether prior approval of the Local Planning Authority is required as to the siting and appearance of the development.

Under paragraph A.3 (7) the Local Planning Authority must take into account any representations as a result of consultations or notices.

It is acknowledged that the development as proposed would fall within the permitted development provisions under Class A of Part 16 of the GPDO in meeting the height limitations (proposed at 15m) and ground base area limitations (the base around the monopole being 0.16m²) but that an application as to whether prior approval is required is necessary in this case.

Prior Approval

An application for prior approval under Part 16, Class A of the Town and County Planning (General Permitted Development) (England) Order, 2015, as amended, according to paragraph A.3 (5) (c), must be accompanied by evidence set out in paragraph A.3 (1). Paragraph A.3 (1) requires the developer to give notice of the proposed development to any person who is the owner of the land, to which the development relates, and paragraph A.3 (2) specifies the details that are to be provided.

The supporting supplementary information states that a Developer's Notice was served on 12th July 2023, which covers these requirements.

As such, in accordance with Condition A.3(4) of the abovementioned legislation, the considerations of the Local Planning Authority can only be in relation to whether the prior approval of the Local Planning Authority is required in relation to the siting and appearance of the development.

However, in making this assessment, regard should be had to the importance placed on supporting high quality communications infrastructure at paragraph 114 of the National Planning Policy Framework (NPPF) (2021) which is identified to be essential for economic growth and social well-being. Although this is not directly related to matters of siting and appearance, it is an indicator that there should be a general acceptance that equipment of this nature is required and should be accommodated wherever possible.

Paragraph 117 of the NPPF states that "applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

- a) 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 surrounding an aerodrome, technical site or military explosives storage area; and*
- b) for an addition to an existing mast or base station, a statement that self certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or*
- c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.*

In relation to (a) the applicant has identified that site be situated close to three schools/colleges and the 'site specific supplementary information' (SSSI) states that these schools were notified. However, the applicant has not provided copies or details of the consultation that were sent nor the details of the outcomes of such consultations. Instead, the SSSI states that the "to the best of our knowledge there were no issues raised". This is not considered sufficient evidence to satisfy the requirements of paragraph 117 (a) of the NPPF, as such it is considered that the applicant has failed to demonstrate that this consultation was undertaken.

The site is not within 3km of an aerodrome or airfield. As such no consultation was carried out. The Local Authority are satisfied that the second leg of section (a) of Paragraph 117 of the NPPF pertaining to statutory safeguarding zones has been met. Section (b) of Paragraph 118 of the NPPF does not apply to this proposal.

In relation to (c) a standard statement has been submitted regarding the relevant ICNIRP Guidance. Although the applicant has reviewed other areas in which the equipment could be located, with some

justification as to why these sites are not appropriate, the applicant has failed to consider locating the apparatus/mast on nearby buildings such as the Cygnets Leisure Centre, as such it cannot be stated that the application is in accordance with (c).

Public Health England (2019) maintain the following;

5G frequencies

'With the increase in the volume of information being transferred, more spectrum is being made available and the highest frequencies being discussed for future use by 5G are around 10 times higher than those used by current network technologies, up to a few tens of gigahertz (GHz).

Their use is not new, and they have been used for point-to-point microwave links and some other types of transmitters that have been present in the environment for many years. ICNIRP guidelines apply up to 300 GHz, well beyond the maximum (few tens of GHz) frequencies proposed for 5G.'

Siting and Appearance

Policy CS19 (Development and Design Principles) of the Gravesham Local Plan Core Strategy (LPCS) (2014) states that the design, layout and form of new development will be derived from a robust analysis of local context and character, and will make a positive contribution to the street scene, the quality of the public realm and the character of the area. In addition, Section 12 (Achieving Well-Designed Places) of the National Planning Policy Framework (NPPF) (2021) sets out that the creation of high-quality places is fundamental and should add to the overall quality of the area, over the lifetime of the development. It also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

In assessing this application, regard must be paid to the National Planning Policy Framework (NPPF) (2021) and the development plan. The NPPF supports high quality communication infrastructure with Paragraph 114 noting that *'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology and full fibre broadband connections.'* Furthermore, the NPPF continues to state that the use of existing masts and structures should be encouraged and that equipment should be sympathetically designed and camouflaged where appropriate.

The proposed site is located in a prominent position and would be located on the back edge of the footway, in front of a green verge. There are some trees nearby located on the grass verge, but these are not in close proximity to the site and therefore would not serve to reduce the impact of the proposal on the street scene. It is noted that linear streetlamps are located close to the proposed site, however they are considerably lower in height than the proposal (8m in comparison to 15m) and are of a slender nature. Therefore these streetlamps do little to reduce or lessen the impact of the proposal on the street scene, in any case an on-street mast of 15m high would be extremely visible.

Moreover, the position of the mast and cabinets also raises concerns. It would be sited in an isolated position, fronting the grass verge and 2.6m from the edge of the highway. The relatively open character of the street scene, which is free from clutter, would be harshly interrupted by the large mast and apparatus. Therefore, the proposed development would erode the open character of the area and would introduce an alien structure, in terms of scale and design, to the detriment of the appearance of the street scene.

In consideration of the matter of siting and appearance the proposed development would materially change the character of Hall Road. The proposed development would introduce a large mast and ground-based apparatus close to the highway and in a prominent position. There is little mitigation offered by tree coverage or the streetlamps. Therefore, the proposal would detrimentally impact the siting and appearance of the street scene and is contrary to Policy CS19 (LPCS) as well as Section 12 of the NPPF (2021).

Amenity of Adjoining Properties

In considering any proposals for development, it is important to ensure that it does not cause demonstrable harm to the amenity of any existing residents or property such that it will materially harm their living conditions. Policy CS19 (LPCS) requires new development to safeguard the amenity, including privacy, daylight and sunlight, of its occupants and those of neighbouring properties and land.

The proposed mast will be approximately 25m away from the nearest dwelling to the south, Wombwell Lodge. However, the development is not considered to have any impact on occupier amenity as the dwelling is separated from the site by Hall Road and the property is well-screened by mature trees. Therefore, the proposed development will not cause material harm to the amenity of any adjacent properties in terms of loss of light, outlook, privacy or sense of enclosure.

Highways Issues

There are no highway implications related to the proposed development. The apparatus would not impact on visibility on the access into Cygnets Leisure Centre by virtue of being set-back from the highway and being 26m from the access. No objection was raised by the Council's Highway Officer or KCC Highways Planning Team. As such, the proposed telecommunications apparatus is considered acceptable in terms of highways.

Any Other Material Planning Considerations

Health Impact Issues - The proposed base station is designed to operate in accordance with all health and safety requirements, including the guidelines issued by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and the appropriate declaration provided.

Conclusion

The proposed installation of 5G mast and apparatus has been considered against the criteria set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and it is considered that the Prior Approval of the Local Planning Authority in regard to siting and appearance of the development is required in this instance.

The application fails to demonstrate that nearby schools were consulted, nor does it provide the outcome of such consultation. It fails to provide evidence that the possibility of erecting antennas on an existing building, mast or other structures have been explored, contrary to the requirements of Paragraph 117 of the National Planning Policy Framework (2021).

The proposed location of the mast and apparatus is sited in an isolated position fronting a grass verge on the back of the footway, and would erode the open uncluttered character of the area and introduce an alien structure which is out of proportion and scale, to the detriment of the appearance of the street scene. Therefore, the proposal would detrimentally impact the siting and appearance of the area contrary to Policy CS19 of Gravesham's Local Plan Core Strategy (2014) and Section 12 of the National Planning Policy Framework (2021).

Recommendation

Prior Approval is Required and Refused

(For detailed reasons for refusal and informatives, see draft Decision)

Case Officer:	Mr Ethan Bonthron	Team Leader:	Mr Shazad Ghani
Signed:		Signed:	
Dated:	4 th September 2023	Dated:	6 September 2023