

Delegated Report

Telecommunications Determination (PRIOR)

Application No:	20220629
Location:	Telecommunications Mast, Thames Way, Gravesend, Kent
Description:	Application for determination pursuant to Part 16 Class A of the Town and Country Planning (General Permitted Development) Order 2015, as amended, as to whether prior approval is required for proposed telecommunications installation of 15m high street pole and 3 additional ancillary equipment cabinets and associated ancillary works.
Applicant:	CK Hutchinson Networks (UK) Ltd
Site Visit:	4 th August 2022

Site Description

The application site is located on the southern side of Thames Way, approximately 37.5m from the junction with Vale Road. The site is on a wider section of footway and located in front of a brick retaining wall, with trees and shrubs behind.



Submitted Documents/Plans

The application comprises the following documents and plans:

- Application Form - dated 09/06/2022;
- Supplementary Information - Developers Notice (served to GBC) (dated 09/06/2022);
- Supplementary Information - ICNIRP Declaration;
- Supplementary Information - Department for Digital, Culture, Media & Sport - Collaborating for Digital Connectivity;
- Supplementary Information - Site Specific Supplementary Information and Planning Justification;
- Drawing no. GVM21541_GVM081_86239_FS0582_GA_REV_B - 001 - Drawing Register;
- Drawing no. GVM21541_GVM081_86239_FS0582_GA_REV_B - 002 - Site Location Plan;

- Drawing no. GVM21541_GVM081_86239_FS0582_GA_REV_B - 003 - Proposed Site Plan;
- Drawing no. GVM21541_GVM081_86239_FS0582_GA_REV_B - 265 - Proposed Site Elevation.

Plans and Documents Note

The agent was contacted regarding the proposed colour of the monopole and supporting apparatus and it was considered that painting the structures Fir Green 'RAL6009' would be more appropriate. The revised plans were received (03/08/2021) and accepted by the Local Planning Authority.

However, the Site Specific Supplementary Information and Planning Justification document was not revised and therefore has the incorrect address and no details of the colour of the apparatus being 'RAL6009'. If the Local Planning Authority were to grant prior approval, an informative will be attached to the decision notice highlighting this error in the document.

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 & 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 sustainable development and well-designed places
- Section 15 - Conserving and enhancing the natural environment

Consultations, Publicity and Representations

External Consultees

Local Ward Councillors - No comment received.

Highways England - National Highways has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national

asset and as such we work to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

However, given the nature of the application (telecoms installation) and the distance from the SRN (the nearest point being the A2 at Pepper Hill, some 1km+ away), we suspect we have been consulted in error. Therefore, please ensure that you have consulted Kent County Highways.

Nevertheless, please accept this email as our formal response of No Objection.

Kent County Council Highways - I would raise no objection to this application from a Highways Development Planning perspective.

Can you advise the applicant that they will require separate KCC Highways approval for the works since it is on public highway land. They should contact Kelly Garoghan (kelly.garoghan@kent.gov.uk) in the Streetworks Team.

Internal Consultees

GBC - Highways Officer - Looking at the application, it's set back from the highway edge and I cannot see any reason to object. The issues that the applicant needs to consider are:

1. Where do they park their vehicles for maintenance and possible installation, I do not know if there are appropriate relaxations in the Bus Lane Traffic Regulation Order, something they will need to consult Kent County Council on and give plenty of notice.
2. I do not have the knowledge to say whether or not the proximity of a phone mast and lamp column will have health and safety issues for anyone working on the lamp column
3. A 3 metre combined footway/cycleway should be maintained past the installation, given the drawings submitted it looks a little tight, but some slight relaxation for a pinch point is usually possible.

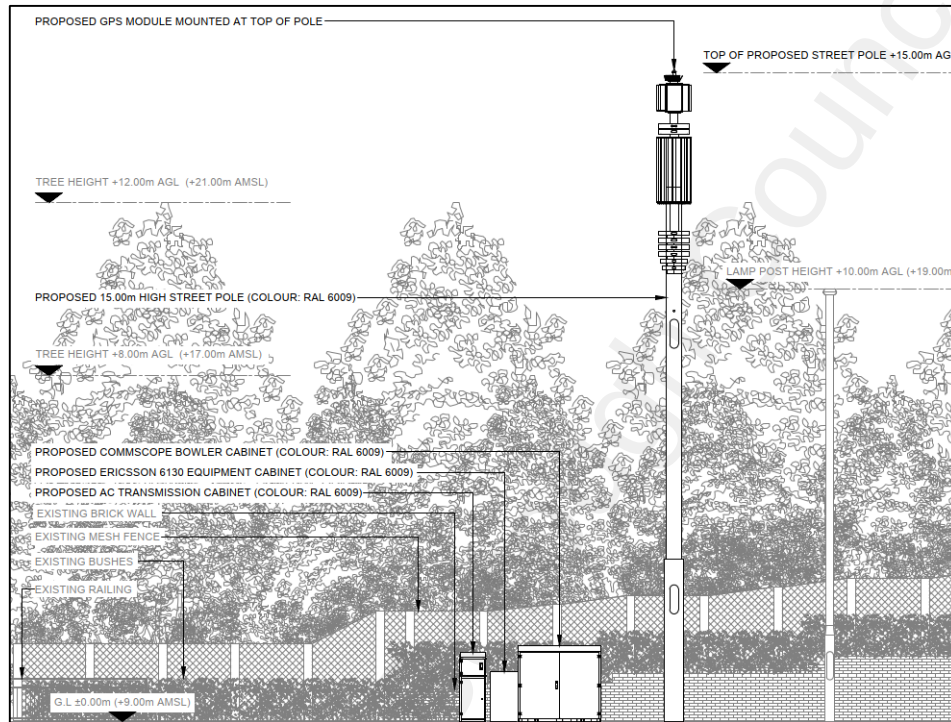
Neighbouring properties

A notice was displayed on site. In addition, five surrounding properties were consulted and no representations were received. The consultation period expired 25th July 2022.

Officer Assessment

Description of the Development

This application proposes the erection of a 15m high monopole and 3 additional ancillary equipment cabinets. The monopole and ancillary cabinets are to be painted 'RAL6009' (green) in accordance with the details shown in drawing nos. 'GVM21541_GVM081_86239_FS0582_GA_REV_B - 003' / 'GVM21541_GVM081_86239_FS0582_GA_REV_B - 265'.



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.

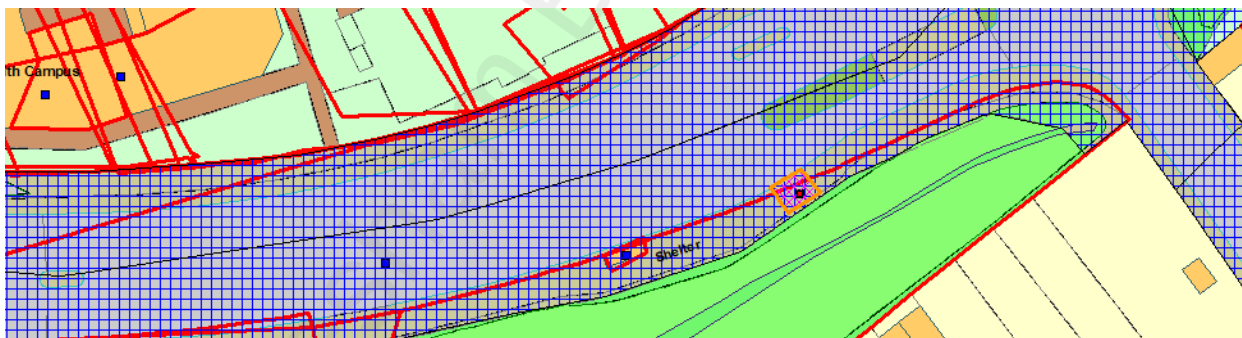
It is acknowledged that the development as proposed would fall within the permitted development provisions under Class A of Part 16 of the GPDO in meeting the height limitations (proposed at 15m) and ground base area limitations (the base around the monopole being 0.24m²) but that an application as to 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.

In this case, a developer notice and supplementary letter has been supplied to Gravesham Borough Council (GBC). However GBC are not in ownership of the site for the proposed development. The landowner, Kent County Council Highways (KCC), have not been consulted and no evidence has been provided to the Local Planning Authority to confirm them being notified by the applicant.

The GIS mapping image below shows that KCC Highways own the land on which the proposed development will be located. The blue hatching is land within KCC Highways ownership and the small orange square is the proposed site.



Therefore, the application has not been accompanied by evidence required under paragraph A.3 (1) and therefore fails to meet the requirement set out in paragraph A.3 (5) (c). As such, the application has not been received by the Local Planning Authority (LPA) in accordance with paragraph A.3 (5) and Prior Approval is required and refused.

The agent was contacted regarding this matter and no evidence was provided to demonstrate that notice was served on KCC regarding the development. On a telephone call, the agent stated that they had undertaken their due diligence by undertaking land registry searches, which showed that the land was Council owned. However this evidence has not been provided to the LPA. Therefore, with no evidence to the contrary, the application has not been accompanied by the evidence required under paragraph A.3 (1) to satisfy A.3 (5) (c).

Given that the application fails under paragraph A.3 (5), no detailed assessment has been made against the siting and appearance or other matters relating to the proposal. However, brief comment is provided below:

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 at the rear of the footway, adjacent to the highway and is positioned in front of the brick retaining wall, with a number of mature trees and shrubs behind. There are street lamps nearby which would mitigate the impact. To further reduce the impact of the development on the character and appearance of the area, and camouflage with the foliage behind, the agent was requested to change the colour of the proposed apparatus to Fir Green 'RAL6009'. As aforementioned in this report, the plans were amended and received by the LPA (03/08/2022).

In consideration of the matter of siting and appearance the proposed development would not materially change the character of Thames Way. The proposed development, although introducing a large mast, has a linear design with a relatively thin monopole, which is similar to street lamps within the street scene. Moreover, the nearby trees would mitigate the impact with the monopole being Fir Green 'RAL6009' to camouflage the structure, limiting the impact on the street scene. Therefore the proposal would not detrimentally impact on the siting and appearance of the street scene and is in accordance with Policy CS19 (LPCS) as well as Sections 10 and 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 42m away from the nearest dwellings to the south.

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 junction by virtue of being set-back from the corner. Moreover, the Vale Road junction is traffic lighted and the development is positioned to the left of the junction. 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.

However, it is worth noting that the Council's Highways Officer raised the following considerations:

- Where will they park their vehicles for maintenance and possible installation? Are there appropriate relaxations in the Bus Lane Traffic Regulation Order? Kent County Council will be to be consulted on this and given plenty of notice.
- Will the proximity of a phone mast and lamp column will have health and safety issues for anyone working on the lamp column?
- A 3 metre combined footway/cycleway should be maintained past the installation, given the drawings submitted it looks a little tight, but some slight relaxation for a pinch point is usually possible.

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 application has not been accompanied by evidence required under paragraph A.3 (1) and therefore fails to meet the requirement set out in paragraph A.3 (5) (c). The landowner, Kent County Council Highways, have not been consulted by the applicant and no evidence has been provided to the Local Planning Authority to confirm that they were notified of the development. As such, the application has not met the requirement set out in paragraph A.3 (5), by virtue of no evidence to satisfy paragraph A.3 (1), and therefore Prior Approval is required and refused.

Recommendation

Prior Approval is Required and Refused.

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	4 th August 2022	Dated:	04 August 2022