



Delegated Report

Telecommunication Works Application

Application No:	20230523
Location:	Communication Station, The Hive, Northfleet, Gravesend, Kent, DA11 9DE
Description:	Notification under the Electronic Communications Code Regulations of the intention to install Electronic Communications Apparatus to an Existing Telecommunications Installation at Hive Lane, The Hive, Gravesend, DA11 9DJ.
Applicant:	Archie Roberts, Pegasus Group

Site Description

The communications station at The Hive is situated on the roof of the flat block, which is located on the northern side of London Road.



Submitted Documents/Plans

- Notice Letter from Pegasus Group (dated 11th May 2023)

Documents/Plans Note

The agent was contacted by telephone (26/05/2023) in relation to the lack of information and/or plans supporting the application. It was confirmed that no other information was to be submitted and that Pegasus Group do not submit location plans or elevations for applications of this type.

It was agreed that the application would be determined on the information provided with the Notice Letter (dated 11th May 2023).

Relevant Planning History

Reference	Description	Decision	Decision Date
19970854	Notice under Section 9 of the Telecommunications Act 1984 to upgrade existing telecommunications installation.	ATEL	08.12.1997
19970466	Notice under Section 9 of the Telecommunications Act 1984 for the installation of six sector antenna to replace the existing omni antenna, a large telecommunication cabin to replace the existing cabin, 2 no. additional dish antenna and ancillary development.	ATEL	10.07.1997
19930083	Notice under section 9 of the Telecommunications Act 1984 for installation of an equipment cabin, two microwave antennae and two omni antennae.	ATEL	01.03.1993
19930082	Determination as to whether prior approval is required for the siting and appearance of equipment cabin.	SEC53N	01.03.1993

Proposed Development

This is a 28 day notice application for the “removal of 6no. antenna and to be replaced by 6no. new antenna at 15m together with replacement ancillary equipment”.

Relevant Definitions

The communications Act 2003 interprets the following terms as laid out below:

Apparatus

includes any equipment, machinery or device and any wire or cable and the casing or coating for any wire or cable;

Electronic Communication Apparatus

- (a) *apparatus designed or adapted for use in connection with the provision of an electronic communications network,*
- (b) *apparatus designed or adapted for a use which consists of or includes the sending or receiving of communications or other signals that are transmitted by means of an electronic communications network,*
- (c) *lines, and*
- (d) *other structures or things designed or adapted for use in connection with the provision of an electronic communications network.*

Officer's Analysis

Whether prior approval is required for the works would be assessed under the legislation within The Town and Country Planning (General Permitted Development) (England) Order 2015. Part 16, Schedule 2 of this

details the requirements for Communications. Class A specifically addresses electronic communications code operators, which is applicable to this case. The requirements specific to this case are laid out in the table(s) below:

Class A - electronic communication code operates

Permitted development

A. 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.**

A.1. Development not permitted: building-based apparatus other than small antenna and small cell systems

Section of Legislation	Requirement	Has the requirement been met? (Y/N)
2	Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than small antenna and small cell systems) on a building is not permitted by Class A(a) if—	(see assessment below)
(a)	the height of the electronic communications apparatus (taken by itself) would exceed— (i) 15 metres, where it is installed on a building which is 30 metres or more in height; or (ii) 10 metres in any other case;	N Building 23.7m in height – below 30m. Therefore, the description stating that the apparatus would be at 15m, would fail (a) (ii).
(b)	the highest part of the electronic communications apparatus when installed, altered or replaced would exceed the height of the highest part of the building by more than— (i) 10 metres, in the case of a building which is 30 metres or more in height; (ii) 8 metres, in the case of a building which is more than 15 metres but less than 30 metres in height; or (iii) 6 metres in any other case;	N Building 23.7m in height – less than 30m more than 15m. The description states that the apparatus would be at 15m, would fail (b) (ii).

(c)	in the case of the installation, alteration or replacement of a mast on a building which is— (i) on article 2(3) land or land which is, or is within, a site of special scientific interest; and (ii) less than 15 metres in height, the mast would be within 20 metres of the highway (unless the siting remains the same and the dimensions of the altered or replaced mast are no greater);	Y Not on article 2(3) land.
(d)	in the case of the installation, alteration or replacement of an antenna on a building (other than a mast) which is less than 15 metres in height; on a mast located on such a building; or, where the antenna is to be located below a height of 15 metres above ground level, on a building (other than a mast) which is 15 metres or more in height— (i) the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building on which the antenna is to be located; (ii) in the case of dish antennas, the size of any dish would exceed 0.9 metres or the aggregate size of all the dishes on the building would exceed 4.5 metres, when measured in any dimension; (iii) in the case of antennas other than dish antennas, the development would result in the presence on the building of— (aa) more than 3 antenna systems; or (bb) any antenna system operated by more than 3 electronic communications code operators; or (iv) the building is a listed building or a scheduled monument;	Y Building is over 15m in height – so does not apply.
(e)	in the case of the installation, alteration or replacement of an antenna on a building (other than a mast) which is 15 metres or more in height, or on a mast located on such a building, where the antenna is located at a height of 15 metres or above, measured from ground level— (i) in the case of dish antennas, the size of any dish would exceed 1.3 metres or the aggregate size of all the dishes on the building would exceed 10 metres, when measured in any dimension; (ii) in the case of antennas other than dish antennas, the development would be on a building which is	UNKNOWN Unable to answer this section from the information provided – insufficient information

	less than 30 metres in height and would result in the presence on the building of— (aa) more than 5 antenna systems; or (bb) any antenna system operated by more than 3 electronic communications code operators; or (iii) the building is a listed building or a scheduled monument; or	
(f)	in the case of the installation of an antenna on electronic communications apparatus on a building on article 2(3) land— (i) the size of any dish antenna to be installed would exceed 0.6 metres or the number of dish antenna which have been installed on the building since 21st August 2013 would exceed 3; or (ii) the height of any antenna other than dish antenna to be installed would exceed 3 metres, or the number of such antennas which have been installed on the building since 21st August 2013 would exceed 3.	Y Not on article 2(3) land.

Development not permitted: small antennas installed, replaced or altered on a building which is not a dwellinghouse

Section of Legislation	Requirement	Has the requirement been met? (Y/N)
A.1 (6)	Development consisting of the installation, alteration or replacement of a small antenna on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse is not permitted by Class A(a) if—	(see assessment below)
(a)	that antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building on which the antenna is to be located;	UNKNOWN
(b)	the building is less than 15 metres in height, and the installation, alteration or replacement would result in the presence on that building of more than 1 small antenna; or	Y Building height over 15m
(c)	the building is 15 metres or more in height, but less than 30 metres in height, and the installation, alteration or replacement would result in the presence on that building of more than 2 small antennas.	N Building height over 15m and proposes no.6 antenna

Assessment

The supporting statement (notice letter) states that the *“proposal does not consist of any development specified under Article A.1 or Condition A.2(3) of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 [GPDO], as amended, which requires either an application for planning permission or an application for a determination as to whether the Authority’s approval is required for the siting and appearance of the development”*.

Article A.1 of Schedule 2, Part 16 of the GPDO includes the installation, alteration or replacement of electronic communications apparatus on buildings, which is considered to cover this proposal that seeks to replace existing antenna. As such the proposal was assessed under paragraphs A.1 (2) and (6) of the GPDO and it could not be determined if it met the requirements due to a lack of information or plans. However, from the description of the proposal the antenna would be at a height of 15m which would not meet the requirements set out in A.1 (2) (a) and (b) of Schedule 2, Part 16 of the GPDO, as the building has a height of 23.7m.

The Conditions set out in A.2 of Part 16 Schedule 2 (GPDO) state that Class A (a) and (c) are permitted subject to (1) (a) the siting and appearance of any antenna or supporting apparatus replaced on a building are such that the effect on the external building is minimised. As above, the information is limited and the effect on the siting and appearance of the building cannot be assessed.

A.2 (3) (c) of Part 16, Schedule 2 (GPDO) sets out what developments would require prior approval assessment. Although the information provided is lacking, the development is not considered to meet the requirement for a prior approval assessment and A.3 (Prior Approval) would not be triggered.

Conclusion

There is insufficient information available to ascertain whether the proposal would comply with Article A.1 of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, from the description of the proposal and the limited information the development is considered to fail A.1 (2) (a) and (b) of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Nevertheless, the development is a minor form of telecommunications works that could be permitted development within the requirements set out in Article A.1 and is unlikely to require prior approval from the Local Planning Authority (A.3).

The developer is encouraged to ensure that the proposal meets all requirements within Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) order 2015, as amended, and that the siting and appearance of any replacement antenna or supporting apparatus installed minimise the effect on the external building as set out in A.2 (1) (a) (Conditions).

Lastly, the developer is reminded that it is their responsibility to notify the property owners of any works to the building.

Case Officer:	Mr Ethan Bonthron	Team Leader:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	31 st May 2023	Dated:	31 May 2023