



Delegated Report

Prior Approval Application

Planning Application No: 20221015

Location: Telecommunications Station Valley Drive 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 a 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Applicant: CK Hutchison Networks (UK) Ltd

Site Visit Date: Desktop assessment

Submitted Documents/Plans

Application form
002 Site Location Plan Issue D
100 Existing Site Plan Issue D
150 Existing Elevation A Issue D
210 Proposed Site Plan Issue D
260 Proposed Elevation Issue D
Cover Letter
Site Specific Supplementary Information
Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines
Developers Notice

Relevant Planning History

Reference	Description	Decision	Decision Date
20220490	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 a 16.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.	Refused	30.06.2022

Development Plan

Gravesham Local Plan Core Strategy (2014)

- CS01 – Sustainable Development
- CS02 – Scale and Distribution of Development
- CS12 – Green Infrastructure

- CS18 – Climate Change
- CS19 – Development and Design Principles

Gravesham Local Plan: First Review (1994)

- T1-3 Impact of Development on Highway Network

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)

- 2 – Achieving sustainable development
- 9 – Promoting sustainable transport
- 10 – Supporting high quality communications infrastructure
- 12 – Achieving well-designed places
- 15 – Conserving and enhancing the natural environment

Consultations, Publicity and Representations

Consultees

National Highways

National Highways objects to this notification on the grounds that the proposal is not 'in, on, over or under land controlled by that operator or in accordance with the electronic communications code'.

Therefore, the application has been made in error and cannot be determined by the local planning authority other than via a written confirmation that the works would not be Permitted Development.

ACTION: The applicant, if they so wish, to provide any evidence that the site is not within National Highways land by providing Land Registry evidence to the contrary

ACTION: Subject to any further evidence regarding land ownership, Medway Council to confirm that they accept our position and will confirm to the applicant that the works would not be Permitted Development

It will also be noted that even in the event that the Council disregarded our view, assuming that the land is confirmed as being National Highways', no consent would be granted for any works at this site.

Neighbouring properties

The application has been advertised by individual neighbour letters to 8 properties, and on site. The consultation periods expired on 7 and 14 October respectively.

No letters of representation have been received from neighbouring properties.

Local Ward Councillors were also consulted, and no responses were received.

Officer's 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 in accordance with the electronic communications code, consisting of (a) the installation, alteration or replacement of any electronic communications apparatus.'

Paragraph A1.1(a) requires all apparatus should not exceed a height of 15 metres above ground level, and A1.1(c) requires that in the case of the installation of a mast it should not exceed 25 metres above ground level on unprotected land.

In relation to the application proposal, the apparatus will not exceed 15 metres above ground level, and the mast will not exceed 25 metres.

The proposal would be subject to the conditions set out in Paragraph A.2. This includes Paragraph A.2(3)(c)(i), which relates to the installation of a mast on unprotected land, which is permitted subject to the conditions set out in Paragraph A.3 (prior approval).

Prior Approval

Before the application has been made, 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 specifies the details that are to be provided (see Paragraph A.3(2)). A copy of a developers notice with a covering letter has been supplied with the application and meets these requirements.

Before beginning the development, Paragraph A.3(4) also sets out that the developer must apply to the Local Planning Authority for a determination as to whether prior approval is required in relation to the siting and appearance of the development; hence the submission of this application.

As part of the consideration of this application, the Local Planning Authority has carried out consultations. National Highways has responded with the following comments:

National Highways object to this notification on the grounds that the proposal is not 'in, on, over or under land controlled by that operator or in accordance with the electronic communications code'.

Site Location Plan:

It will also be noted that even in the event that the Council disregarded our view, assuming that the land is confirmed as being National Highways', no consent would be granted for any works at this site.

Paragraph A.3(7) requires the Local Planning Authority to take into account any representations made as a result of the consultations or notices given under paragraph A.3.

In light of the representation received from National Highways objecting on land ownership grounds, the proposal cannot be considered to be permitted development.

Conclusion and Recommendation

Paragraph A.3(7) requires the Local Planning Authority to take into account any representations made to them as a result of the consultation or notices given under paragraph A.3. As National Highways object to the application on land ownership grounds, the development cannot be permitted under Part 16, Class A, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) as it is not in, on, over or under land controlled by or on behalf of an electronic communications code operator.

(See draft Decision)

Case Officer:	Mrs Katherine Parkin	Team Leader:	Miss Faye Hobbs
Signed:	<i>K. Parkin</i>	Signed:	
Dated:	3rd November 2022	Dated:	04 November 2022