



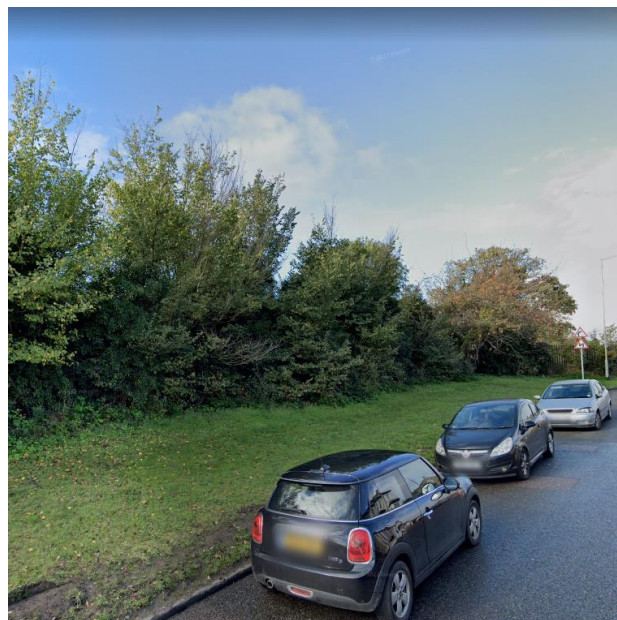
Delegated Report

Telecommunications Determination (PRIOR)

Application No:	20230936
Location:	Land At Vale Road, Northfleet, Gravesend, Kent, DA11 8DD
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 20m monopole, 12 no. antenna apertures, 2 no. 600mm transmission dishes, 6 no. equipment cabinets and development ancillary thereto.
Applicant:	MBNL, EE Ltd & H3G (UK) Ltd
Site Visit:	26 th September 2023

Site Description

The site is located on the western side of Vale Road within the wider urban area of Northfleet. It is on a grass verge opposite a row of terrace houses to the south of the railway line.



Submitted Documents/Plans

- Application Form - dated 05/09/2023;
- Covering Letter to GBC (dated 06/09/2023);
- Supplementary Information - Developers Notice (dated 05/09/2022);
- Supplementary Information - ICNIRP Declaration (dated 08/02/2020);
- Supplementary Information - Department for Digital, Culture, Media & Sport - Collaborating for Digital Connectivity;

- Supplementary Information - Department for Digital, Culture, Media & Sport - Connected Growth;
- Supplementary Information - Mobile - UK 5G and Health;
- Supplementary Information - Mobile - Councils & Connectivity;
- Supplementary Information - 5G and Future Technology;
- Supplementary Information - Site Specific Supplementary Information;
- Un-numbered Location Plan - Ordnance Survey Site Location Plan (scale 1:1250);
- Drawing no. 1707938_GVM091_30702_M001 - Rev. A - 100 - Existing Site Plan;
- Drawing no. 1707938_GVM091_30702_M001 - Rev. A - 150 - Existing Elevation A;
- Drawing no. 1707938_GVM091_30702_M001 - Rev. A - 215 - Proposed Site Plan;
- Drawing no. 1707938_GVM091_30702_M001 - Rev. A - 265 - Proposed Elevation.

Procedural Issues

The ICNIRP information submitted with this application is not a certificate but is a draft without any clear declaration of conformity to the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines. **Therefore, no official ICNIRP certificate or declaration have been provided to the Local Planning Authority.**

While the ICNIRP is not required in the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, the Government 'Planning rules for 5G masts in England' (8 December 2022) requires operators to submit a statement, for all planning applications and prior approval applications, that "confirms that a mobile mast will adhere to exposure limits on non-ionising radiation set by International Commission on Non-Ionizing Radiation Protection (ICNIRP)". **As such, the Local Planning Authority cannot confirm whether the mobile mast hereby proposed would meet ICNIRP guidelines.**

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 (2023) 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 (2023)

- 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

Internal Consultees

Local Ward Councillors - I want to add my formal objection to the above application for masts on Vale Road. This is out of character for the area, on a sloped bit of land which doesn't make sense given the infrastructure proposed and the fact an access to the urban park is there which doesn't look like this has been taken into account. How will they access to maintain this infrastructure as well there is no parking facilities and the road is narrow and already condensed parking.

Neighbouring properties

A notice was displayed on site 18th September 2023.

In addition, seven surrounding properties were consulted and eight objections were received. The representations expressed concerns regarding:

- Visual impact on character of area (siting and appearance)
- Impact on / obstruction of the highway
- Impact on the environment / loss of Green space
- Proximity to residential properties
- Health Issues
- Impact on Services (e.g. gas mains)
- More suitable alternative locations
- Works started on site

The consultation period expired 2nd October 2023.

Preliminary Matters

The neighbour responses raised concerns with works being undertaken on site.

A site visit was undertaken (26/09/2023) to investigate if works were commenced prior to approval and contrary to A.3 (4) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), which states:

(4) Before beginning the development described in paragraph A.2(3), the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development.

On site, it was clear that some of the ground had been turned and evidence of digging. However, this is likely to be exploratory works and is not considered to constitute the commencement/beginning of development. As such, it is not considered to be contrary to A.3 (4) of the GPDO.

Officer's Analysis

Description of the Development

This application proposes the installation of a 20m 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 on unprotected land (proposed at 20m) and ground base area limitations (the base around the monopole being 0.2m²) 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. 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.

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:	Richard Hart
Signed:	<i>Ethan Bonthron</i>	Signed:	<i>R Hart</i>
Dated:	24 th October 2023	Dated:	24 th October 2023