

Delegated Report

Telecommunications Determination (PRIOR)

Application No:	20220873
Location:	Telecommunications Mast, Thames Way, Northfleet, 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:	C K Hutchison 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 08/08/2022;
- Supplementary Information - Developers Notice (served to GBC) (dated 08/08/2022);
- Supplementary Information - Developers Notice (served to 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. 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 - 215 - Proposed Site Plan;
- Drawing no. GVM21541_GVM081_86239_FS0582_GA_REV_B - 265 - Proposed Site Elevation.

Relevant Planning History

Reference	Description	Decision	Decision Date
20220629	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.	PRIOR APPROVAL IS REQUIRED AND REFUSED	04.08.2022

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

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 equipment) and the distance from the SRN (the nearest point being the A2 Pepper Hill junction about 1 mile 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 - 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 - Looking at the application, it's set back from the highway edge and I can't 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 don't 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.



Local Ward Councillors - No comment received.

Neighbouring properties

A notice was displayed on site 16th August 2022

In addition, five surrounding properties were consulted and no representations were received. The consultation period expired 9th September 2022.

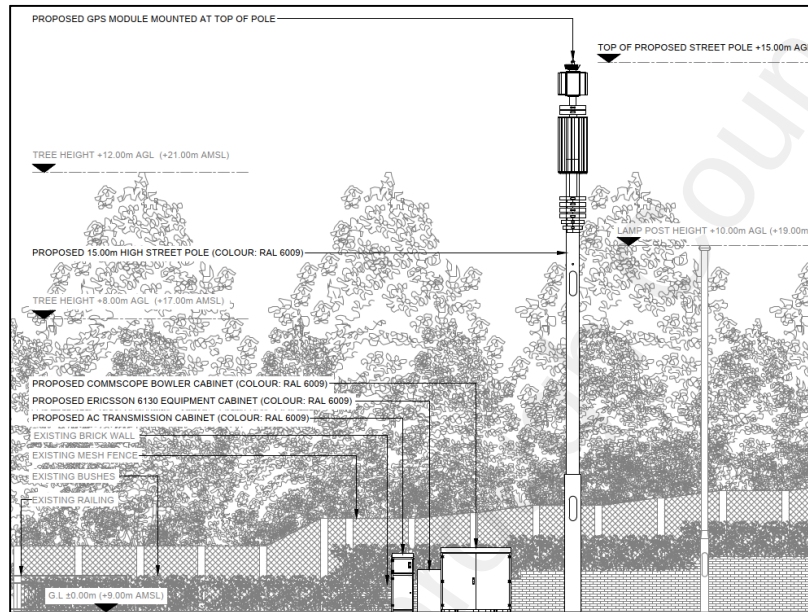
Preliminary Matters

A telecommunications prior approval application was refused earlier in 2022 (ref. 20220629). The application had not completed the correct notices to the landowner as required within the Town and County Planning (General Permitted Development) (England) Order 2015, as amended.

Officer's Analysis

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 - 215 - Proposed Site Plan' / '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.

The supporting supplementary information states that a Developer's Notice was served on 8th August 2022, 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 where the mast, and associated, apparatus are to be installed would not be situated within 400m of a school or college, however this is incorrect. Northfleet Technology College is located on the nearby Colyer Road and is approximately 200m from the mast, which is considered to be an acceptable distance to not warrant consultation.

It will also not be within 3km of an aerodrome or airfield. As such no consultation was carried out. The Local Authority are satisfied that section (a) of Paragraph 117 of the NPPF has been met.

In relation to (c) a standard statement has been submitted regarding the relevant ICNIRP Guidance and the applicant has reviewed other areas in which the equipment could be located, but has provided reasons as

to why these sites are not appropriate.

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 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. The mast and apparatus are to be painted Fir Green 'RAL6009' which will reduce the impact of the development on the character and appearance of the area, and camouflage with the foliage behind.

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.

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 telecommunication mast and apparatus fronting Thames Way 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 not considered that the Prior Approval of the Local Planning Authority in regard to siting and appearance of the development is required in this instance. Therefore, Prior Approval is not required.

Recommendation

Prior Approval is Not Required

Case Officer:	Mr Ethan Bonthron	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	28 th September 2022	Dated:	28 th September 2022