

SITE PLAN ATTACHED

**LAND BETWEEN HULLETTS LANE AND ONGAR ROAD HULLETTS LANE
PILGRIMS HATCH ESSEX**

**PROPOSED 20.0M PHASE 8 MONOPOLE C/W WRAPROUND CABINET AT BASE
AND ASSOCIATED ANCILLARY WORKS.**

APPLICATION NO: 21/01215/TEL

WARD	Pilgrims Hatch	56 DAY DATE	3 September 2021
CASE OFFICER	Mike Ovenden	EXT OF TIME	24 September 2021
Drawing no(s) relevant to this decision:	002; 210; 260;		

The application is reported to the Planning and Licensing committee in accordance with the requirements of the Council's constitution.

1. Proposals

The application relates to a permitted development proposal for a 20.0m monopole mast with integrated cabinet at base (1.8m long, 0.7m wide x 1.6m tall), three other equipment cabinets (1no 1.9m long x 0.6 wide x 1.75m high; 1 no 0.7m x 0.7m x 1.2m high; 1 no 0.5m x 0.6 m x 1.6m high) and associated ancillary works by a telecommunications code system operator (in this case CK Hutchison Networks (UK) Ltd known as 'Three').

The site is part of the grass verge, a tongue of land between Ongar Road and Hulletts Lane, to the east of the double roundabout junction of Ongar Road, Orchard Lane and Coxtie Green Road.

The application makes particular reference to being part of the roll out of the 5G network but in discussions with the agent it is understood that the facility would also be part of the 3G and 4G network.

2. Policy Context

Local Development Plan: Brentwood Replacement Local Plan 2005

- Policy CP1 General Development Criteria
- Policy IR2 Telecommunications
- Policy GB1 New development

- Policy GB2 Development Criteria
- Policy T2 New Development and Highway Considerations
- Policy C16 Development in the vicinity of a listed building

Emerging Local Development Plan (LDP) to 2033:

The Brentwood Replacement Local Plan 2005 remains the Development Plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF). Due weight should be given to them, according to their degree of consistency with the NPPF - the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.

The emerging Local Development Plan went through Pre-Submission (Publication Draft) Stage (Regulation 19) consultation early in 2019 with a further focused consultation, following revisions to the detailed wording of some of the proposed housing allocations, later in the year. The plan was submitted to the Planning Inspectorate in February 2020. The Examination in Public hearing sessions opened in December 2020, concentrating on strategic matters, with hearings on more detailed matters held in February and March 2021, as set out in draft timetabling by the Secretary of State. The Inspector asked for more information on some issues and further hearing sessions took place in July 2021. Provided the Inspector finds the plan to be sound, it is projected that it could be adopted by the Council towards the end of 2021 or early 2022.

As the emerging plan advances and objections become resolved, more weight can be applied to the policies within it. At this stage there are outstanding objections to be resolved, nevertheless, the Plan provides a good indication of the direction of travel in terms of aspirations for growth in the Borough and where development is likely to come forward through draft housing and employment allocations. While the examination is a further step in progress towards adoption, because the plan has yet to complete its progress through the Examination in Public it is still considered that it currently has limited weight in the decision making process.

National Policy

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

3. Relevant History

- None

4. Neighbour Responses

- This is green belt land
- Its would be an eyesore; totally unsuitable location

- Health concerns
- Suggest relocation in Green Lane
- Proposal cannot be described as sympathetically design or camouflaged
- It would be 13 metres above housing with no attempted camouflage
- Mast and cabinets would potentially obstruct the view of traffic existing Orchard Lane
- Surely it can be positioned out of sight and not for all to see
- I assume the council will derive an annual fee from the mobile phone company, which I assume is lucrative!
- Hullets Lane is at a slightly lower level, increasing the relative height of the cabinets
- I assume it would require a lighted beacon which may effect my night time sleep
- Comments that proposal may attract other operators to the site

5. Consultation Responses

- **Historic Buildings and Conservation Officer:**

The development context is within the setting of designated Heritage Assets. No impact of the proposals upon their setting is contained within the submission, therefore I am unable to advise the LPA on the conclusions of the applicant teams' analysis. Please reconsult should this information be supplied.

- **Highway Authority:** Formal response not received to date. Informal comment raising concerning about effect on visibility.
- **Environmental Health & Enforcement Manager:** Environmental Health has no comments to make.

6. Summary of Issues

Background

This is not a planning application. It relates to a form of development that is permitted development (i.e. has a national planning permission) under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 16 Class A – electronic communications code operators. Prior to exercising permitted development rights, operators must apply to the local planning authority for a determination as to whether the prior approval of the Council will be required for two issues – 1) the siting and 2) the appearance of the development. This is what the application seeks to establish. If prior approval is required, the local planning authority then determines whether those details are acceptable.

The committee is aware that the determination period for this type of application is limited to a maximum of 56 days and – unless otherwise agreed - if no decision is made within that period the developer may proceed without delay. In January 2020 a legal judgement confirmed that it is possible to extend the 56 day period with the agreement of the applicant. In this case the applicant has agreed to an extension of time so the application can be determined by committee as required by the constitution.

Planning Policy

When determining a planning application, the local planning authority will consider all relevant policies in their entirety as the starting point. In contrast, the General Permitted Development Order does not require that regard be had to the Development Plan when determining this type of permitted development prior notification application. However, it is accepted practise that the policies of the Brentwood Local Plan 2005 are relevant but only insofar as they relate to the siting and appearance of the proposed development. This means that elements of relevant policies relating to broader matters, for example the principle of the development, are not material to considering this type of application.

Policy CP1 is supportive of development proposals provided they protect the character and appearance of the surrounding area, protect the amenities of neighbours, are of a high standard of design and have satisfactory access and parking and can be accommodated by local highway infrastructure.

Policy IR2 advocates using existing sites, avoiding development which has an unacceptable effect on the appearance of the building and avoiding harm to sensitive areas for example green belt or other sensitive locations, including those of special landscape value or historic interest.

Policy GB1 and GB2 relate to development in the green belt and their broad aim is to protect the openness of the green belt from inappropriate development. Permitted development rules do not differentiate between green belt and non green belt locations.

However, as the proposal is permitted development, consideration is limited only to matters of siting and appearance. The applicant has provided limited information relating to the need for the development. To that extent the proposal partly complies with Policy IR2; other aspects of the policy are considered below.

Paragraph 118 of the NPPF advises that *"Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure."*

Consideration of the proposal

As indicated above, the issues to consider with this type of application are very limited and only relate to the following:

- whether the prior approval of the local planning authority is required for the siting and appearance of the development.
- If prior approval is required whether the submitted details are acceptable.

While the siting and appearance of this form of development are separate issues, they often work together to shape the overall acceptability/unacceptability of a proposal. However, each aspect is considered below.

Siting

The applicant has included details of siting of the mast and equipment cabinets with the application. The siting puts the proposal at the end of a vista from the south along Ongar Road for up to a distance of a couple of hundred metres and from the east along Orchard Lane by up to 300 metres. From the north and west the proposal would be somewhat less prominent due to the alignment of the road and position of buildings and established vegetation, notably in the summer months. Immediately to the north is a group of trees of approximately ten metres in height. These would provide a partial backdrop and some softening of the lower half of the mast and the cabinets and therefore a modest degree of mitigation from some north/west viewpoints. There are various sign posts and street lighting nearby; however, these are much lower in height and slimmer than the column proposed. To the east runs Hulleys Lane a single track lane then a line of dwellings, the nearest of which have the proportions of bungalows.

The proposed cabinets are shown to be arranged in a line near to the footway and away from any existing screen or vegetation. No attempt appears to have been made to screen or arrange the cabinets in an ordered or discreet manner and they would add an air of clutter to the site.

The highways authority has queried the effect on highways safety of siting the proposal as indicated due to its position relative to visibility of converging routes and this has been queried with the agent. To date no further information has been submitted and the matter is unresolved. The siting has the potential to be detrimental to highway safety.

There are two listed buildings in the locality, Hulleys Farmhouse (Grade II) and Hutchens Farmhouse (Grade II) approximately 60 and 80 metres away from the site. The Conservation Officer notes that there is no assessment of the proposal on listed buildings in the locality. However, while this is a requirement or best practice for planning applications, it is not a requirement of this type of permitted development application and where the effect on heritage assets is a relevant matter the decision maker will need to make a judgement based on the information that has been provided.

Given the separation of the listed buildings from the site, it is not considered that the siting would have a material effect on the setting of those listed buildings.

While the proposal is adjacent to a busy throughfare and road junction rather than a more relaxed residential area, overall, the proposal would have a significant detrimental effect on the appearance of the site, viewed from the south, east and nearby where the cabinets would also be in clear public view and prominent in the street scene. This would lead to a loss of amenity to neighbours and impinge on the overall character of the area.

Appearance

The applicant has included details of appearance of the proposal. The mast is a slim monopole which has minimal shrouding. As discussed when considering previous submissions elsewhere, 5G equipment is significantly less tolerant of coverings, camouflage, or screening. This has led to the stark, paired back appearance of the proposed mast. On the other hand, it is less bulky than commonly used 'cigarette holder' masts used in previous generation networks. At twenty metres in height, it would be approximately double the height of the nearby group of trees and of greater contrast to the nearest dwellings 10/12 Orchard Lane of a semi detached chalet bungalow typology, set at a slightly lower level with a high ridge of approximately 7 metres, though with lower elements as well.

The proposed cabinets are of different shapes, sizes and spacing. If the appearance were considered to be acceptable, details of colour of the cabinets and/or the mast, could be agreed by condition. The application refers to the mast having a galvanised finish and the cabinets grey.

In common with the comments on siting, overall the appearance of the proposal would have a significant detrimental effect on the amenity of neighbours and the character of the area.

Since submission of the application, officers have been in contact with the applicant to discuss possible amendments to the proposal given the prominence and harm of the proposal. Various options have been raised with the applicant, including siting the mast on the far side of Ongar Road, where it would be out of the existing vista from the south and seen in conjunction with the tennis court floodlighting lighting, moving it north in the small field immediate adjacent to the site where the cabinets and the lower half of the mast would be screened, repositioning the mast and cabinets adjacent to the adjacent tree and hedge line and reducing its height. However, to date no revision has been offered and the application has to be determined based on what has been submitted in order not to fall out of the agreed determination period.

The planning balance

The identified harm must be balanced against the public benefits of the development. The test therefore is whether the benefits outweigh the harm identified above. The Government is strongly supportive of telecommunications networks and the significant social and economic benefits they provide to individuals, businesses and other organisations. The proposal would provide significant public benefits in the form of maintaining and improving network coverage and enabling future technologies. Policy IR2 is similarly broadly supportive of telecommunications infrastructure, though with certain caveats identified above.

While applications should be determined on their merits, recent appeal decisions concerning the Brentwood Multi storey car park and Masefield Court illustrate the great weight being given to the benefits associated with improving and updating mobile networks. Unlike the appeals for the Coptfold Road street-mast and Pastoral Way, there are no other proposals for alternatives to the current proposal to weigh against the application scheme.

On this occasion it is considered that the harm is significant and not outweighed by the advantages. However, ultimately the decision on this type of application rests on the relative weight given to the harm and benefits of a proposal.

Other Matters

A Declaration of Conformity with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines has been submitted with the application. This declaration certifies the cumulative exposure as a result of the development would not exceed international guidelines and the development would therefore not be detrimental to public safety. It is the long standing position of the Government that if the developer provides a declaration that the equipment complies with ICNIRP standards, local planning authorities should not consider the matter further. Officers support that view.

This report focuses consideration of the proposal to matters relating to siting and appearance of the development and for the reasons given above this proposal fails the requirements of policies CP1, T2 and IR2 and this application is recommended for refusal.

7. Recommendation

Prior approval is required for siting and appearance and prior approval is refused.

The proposal is unacceptable because it would result in the provision of a mast and associated cabinets in a very prominent location and given their siting and appearance would be detrimental to the character of the area and the amenity of nearby residents.

The applicant has been asked to provide further information to determine the effect on highway safety but has not done so. The proposal is contrary to Policy CP1, IR2 and T2 of the Brentwood Replacement Local Plan 2005 and the National Planning Policy Framework.

Informative(s)

1 INF05 Policies

The following development plan policies contained in the Brentwood Replacement Local Plan 2005 are relevant to this decision: National Planning Policy Framework (NPPF) 2021 and NPPG 2014.

2 INF20 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

3 INF23 Refused No Way Forward

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and clearly identifying within the grounds of refusal either the defective principle of development or the significant and demonstrable harm it would cause. The issues identified are so fundamental to the proposal that based on the information submitted with the application, the Local Planning Authority do not consider a negotiable position is possible at this time.

BACKGROUND DOCUMENTS

DECIDED: