

**SITE PLAN ATTACHED**

**LAND BETWEEN HULLETT'S LANE AND ONGAR ROAD HULLETT'S 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** 22 October 2021

**Drawing no(s)  
relevant to this  
decision:** 002 C; 210 Rev C; 260 Rev C; 303 Rev C; 305 Rev C;

**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 15.0m monopole mast with integrated cabinet at base (1.8m long, 0.75m wide x 1.6m tall), three other equipment cabinets (1no 1.9m long x 0.7m 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 Coptie 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The Brentwood Replacement Local Plan 2005 remains the Development Plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF).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 later that year following revisions to the detailed wording of some of the proposed housing allocations. The plan was submitted to the Planning Inspectorate in February 2020. The examination hearing sessions opened in December 2020, concentrating on strategic matters, with hearings on more detailed matters held from February to July 2021. The Council proposes to make modifications to the plan and a six-week public consultation is currently being held, ending on 11 November 2021. The Inspectors will consider any representations made as a result of the consultation. Provided the Inspectors find the plan to be sound, it is anticipated that it could be adopted by the Council in 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, although issues have been discussed through hearing sessions and main modifications for soundness have been published. 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 proposed housing and employment allocations. While the examination is a further step in progress towards adoption, because the plan has yet to be adopted it is still considered to have 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**

Original plans:

- 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 affect my night time sleep
- Comments that proposal may attract other operators to the site

Revised plans:

- Who benefits from this? I doubt it is the large contingent of elderly residents in the area
- Too prominent, why not move it back behind the trees?
- More discussion is required before we blight the local landscape
- I would like to know if Brentwood Council receives any financial incentive for this
- Health concerns to both humans and nature; there is no declaration that will convince us its safe
- It would make the area undesirable and devalue property prices
- There are ongoing legal actions against this form of development in other parts of the country
- If this is approved, Hutchinson would not need to mast share in Green Lane
- Suggest it be located across the road at the Bentley Village car park
- This cannot be considered to be sympathetically designed or camouflaged; it would be a significant eyesore
- While we welcome the reduction in height it makes a mockery of the original claim of necessity

## 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:** From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to the Highway Authority's Development Management policies.
- **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 agreed to an extension of time so the application could be determined by committee, in September, as required by the constitution, and then a further extension of time was agreed to consider a revised proposal and determine the application at the October committee.

### 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 need 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 part 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 Hullets Lane a single track lane then a line of dwellings, the nearest of which have the proportions of bungalows.

The revised proposal shows the mast and cabinets arranged in a line near backing on to the fence and tree line. To some extent this relocation makes the cabinets slightly less prominent in the street scene. They remain unordered and they would add an air of clutter to the site, though slightly less so than the previous proposal. The change in the position of the mast does little to change its effect on the locality.

The highways authority was concerned about the siting of the equipment as previously proposed, in that it could adversely affect visibility for drivers approaching this junction. The revised siting overcomes its concerns.

There are two listed buildings in the locality, Hulletts 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 based 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 thoroughfare 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, pared 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 fifteen metres in height, it would be significantly taller than 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. The application indicates that these would be Fir Green (RAL 6009) which would be acceptable.

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. This latter suggestion has been followed by the applicant, though the case officer made it clear in discussions that this option was the least favoured, though an improvement to the original approval.

### 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.

A representation asks whether Brentwood Borough Council would receive any financial incentive related to this proposal. The Borough Council is not the landowner and there is no incentive whatsoever. The land is highway land and there is a statutory right to install them on such land without rental charges etc. This application will be determined

on planning grounds only as set out in the legislation (see background section above). A further presentation comments about the effect on property prices, though the committee will be aware that the courts have held that this is not a planning issue.

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 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 application is refused because it would result in the provision of a mast and associated cabinets of unacceptable siting and appearance in a very prominent location and would be detrimental to the character of the area and the amenity of nearby residents. It is considered that the benefits associated with the upgrade/improvements to the telecommunication network likely to be associated with this proposal do not outweigh the harm identified. The proposal is contrary to Policy CP1 and IR2 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: CP1, IR2, T2, GB1, GB2, C16 and 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:**