

**SITE PLAN ATTACHED**

**RAYLEIGH ROAD HUTTON BRENTWOOD CM13 1PX**

**PROPOSED 18.0M PHASE 8 MONOPOLE C/W WRAPROUND CABINET AT BASE  
AND ASSOCIATED ANCILLARY WORKS.**

**APPLICATION NO: 21/01427/TEL**

<b>WARD</b>	Hutton East	<b>8/13 WEEK DATE</b>	08.10.2021
<b>PARISH</b>		<b>Ext. Of Time</b>	22.10.2021
<b>CASE OFFICER</b>	Brooke Pride		

**Drawing  
no(s)  
relevant  
to this  
decision  
:**

002A; 100; 210A; 211A; 304A; 305A; 150A; 260A

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

**1. Proposals**

This application relates to a permitted development proposal for an 18.0m monopole mast with integrated cabinet at base (1.8m long x 0.750m wide x 1.6m high), three other equipment cabinets (1no. 1.9m long x 0.6m wide x 1.752m high; 1no. 0.650m long x 0.700m wide x 0.950m high; 1no 0.600 long x 0.520m wide x 1.585m high) and associated ancillary works by telecommunications code system operator (CK Hutchison Networks (UK) Ltd known as 'Three').

The site is a triangular shaped parcel of land located at the junction of Rayleigh Road and Tomlyns Close. The land is laid to grass with a number of deciduous mature trees, otherwise the surrounding area is residential in nature.

**2. Policy Context**

Local Development Plan: Brentwood Replacement Local Plan 2005:

- Policy CP1 General Development Criteria

- Policy IR2 Telecommunications
- Policy T2 New Development and Highway Considerations

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The Brentwood Replacement Local Plan 2005 remains the Development Plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF).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 and Guidance

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

### **3. Relevant History**

- None.

### **4. Neighbour Responses**

Where applications are subject to public consultation those comments are summarised below. The full version of each neighbour response can be viewed on the Council's website via Public Access at the following link:

<http://publicaccess.brentwood.gov.uk/online-applications/>

At the time of writing this report, 69 neighbour representations have been received including a petition signed by local residents:

- Harm to the visual amenity of the area
- Detrimental to residential neighbourhood
- Difficulty on traffic existing Tomlyns Close
- Impact on local house prices
- Close proximity to surrounding dwellings
- People use wifi in their homes and the limited footfall to this area is not enough to demand 5G masts
- Danger to health
- Other suitable locations
- Danger to children
- Impact on highway safety
- Does not comply with the NPPF
- The development is not screened
- Out of scale with surrounding dwellings
- Poor planning application no engagement with local residents
- Green Belt Land
- Area of land is too small for the proposal
- We reject the notion that any perceived benefit from this proposal would outweigh the obvious very significant harm and adverse effect it would have upon our neighbourhood.

1 letter of support was received:

- I support the siting of the telephone mast as it would enhance the mobile network service in this neighbourhood which is poor

## **5. Consultation Responses**

- **Essex County Fire Service (Headquarters)-**  
No objections

- **Environmental Health & Enforcement Manager-**  
Environmental Health has no comments or objections on this application.

- **Highway Authority-**

Proposed 18.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal ensures that the cabinets will be located clear of the visibility splay for vehicles exiting Tomlyns Close, therefore: From a highway and transportation perspective the impact of the proposal is acceptable.

## **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 October, as required by the constitution.

Since original submission officers have sought further information for details of the visibility splays as requested by the highway authority. Discussion has also been carried out regarding alternative design, such as a decrease in height and coverage of the antennas. The applicant has advised that the nature of 5G and the network services it provides means that the equipment and antennas required are different to the previous and existing service requirements, in particular it cannot utilize some existing structures that provide an installation for another operator, because of the separation required from other items. As such the masts are only able to be painted, reduced to 15m and no coverage of antennas is possible. Discussions were also carried out in regard to an alternative site away from residential dwellings, but these were discounted by the applicant as this site is considered to provide screening by tall trees and existing street furniture, and sited away from amenities such as pedestrian crossing, junctions and cycle lanes.

## 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. It is noted that drawing 211 Rev A demonstrates visibility splays and the Highway Authority is content that the development would not give rise to problems relating to the local highway infrastructure.

Policy IR2 requires evidence of the need for the development, 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.

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 the siting of the mast and cabinets within the application. The cabinets would be set out in a linear form, between 1.5m and 2.35m from the footpath; the closest trees are around 8m in height. Telegraph poles and street lighting lamps are the main source of nearby street furniture, although these are at a much lower height than the proposed mast. Although the site is adjacent to a busy thoroughfare the surrounding area is residential in nature, characterised with two storey dwellings and open green spaces which positively contribute to the appearance of the area. Approaching the site from the south east, a mature hedge would partially screen the cabinets and lower part of the mast, but otherwise, the equipment would be set forward of all mature trees and on the open area of the greensward. When approaching the site from the north travelling away from Hutton, the development would be highly visible particularly as you exit the bend in the road.

## Appearance

The applicant has provided one elevation of the proposed mast and associated cabinets. As already noted, by way of appearance the mast can only be painted and the antennas would remain exposed as opposed to being shrouded as is the older generation of mast. The height of the mast is over double that of the adjacent residential properties, shown on the elevation drawing at 7m, and would also be far higher than adjacent trees at 8m in height. The cabinets are of different sizes and their arrangement at ground level introduces a clutter would be highly prominent.

As submitted, the appearance of the proposal is unacceptable. The appearance of the proposal would have a significant detrimental effect on the appearance and character of the surrounding area which is predominantly residential with open green space. The highly prominent location will further accentuate the harm and through its scale and position stands alone.

## 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 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 telecommunications equipment and supporting infrastructure in a highly prominent location that would be detrimental to the character and visual amenity of the area and of nearby residents of Tomlyns Close and Rayleigh Road, contrary to policies 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; National Planning Policy Framework (NPPF) 2019 and NPPG 2014.

##### 2 INF20 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

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The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development. Details of the pre-application service can be found on the Council's website at [www.brentwood.gov.uk/preapplicationadvice](http://www.brentwood.gov.uk/preapplicationadvice)

*BACKGROUND DOCUMENTS*

**DECIDED:**