

SITE PLAN ATTACHED

LAND OUTSIDE OF ASHRIDGE NINE ASHES ROAD BLACKMORE CM4 0QW

**PROPOSED 15.0M PHASE 8 MONOPOLE C/W WRAPROUND CABINET AT BASE
AND ASSOCIATED ANCILLARY WORKS.**

APPLICATION NO: 21/01480/TEL

WARD Hutton East **8/13 WEEK DATE** 15.10.2021

PARISH **Ext. Of Time** 22.10.2021

CASE OFFICER Brooke Pride

Drawing no(s) relevant to this decision
: 002A; 100A; 150A;210A; 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 15 metre high monopole mast with an integrated cabinet at the base, 3 additional cabinets and ancillary works by a telecommunications code system operator (in this case CK Hutchison Networks (UK) Ltd known as 'Three').

The site is located on the west side of Nine Ashes Road on the junction with Meadow Rise and comprises a strip of grass verge highway land. A mature hedge and trees form a soft landscape boundary separating the site from the closest residential dwelling, 'Ashridge', located immediately to south east.

2. Policy Context

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The Brentwood Replacement Local Plan 2005 remains the Development Plan and its policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the National Planning Policy Framework (NPPF).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

- 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/>

58 objections and 39 representations have been received for this application:

- Harm to the visual amenity of the area
- Detrimental to residential neighbourhood
- Harm to the rural character
- Who will benefit
- Harmful to public and the children at the nearby school
- Harm to the historic village
- The alternative site suggested by the parish council should be explored and would offer a better location for the development
- Noise from the cabinets
- Close to residential dwellings
- Large in scale
- Danger to health
- Other suitable locations
- Danger to children
- Does not comply with the NPPF

5. Consultation Responses

- **Essex County Fire Service (Headquarters)-**

No objection

- **Highway Authority-**

No comments received

- **Environmental Health & Enforcement Manager-**

I refer to your memo in connection with the above mentioned application and Environmental Health have no comments to make.

- **Parish Council-**

We acknowledge that such a mast is desirable but we have serious concerns about the proposed location near to a primary school. The parish council is willing to make the northern end of Millennium Park available as an alternative site.

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 - the siting and 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 if no decision is made within that period the developer may proceed without delay. In late January 2020 a legal judgement changed the rules on whether it is possible to extend the 56 day period and extensions of time are once again possible by agreement. In this case an extension of time has been agreed with the agent in order for the application to be heard at planning committee in October.

Since submission officers have been in discussion with the applicants agent regarding alternative sites as proposed by the Parish Council. None of the sites suggested are considered suitable. The crux of their rebuttal is that the alternative sites are not located on the adopted highway, and that streetwork sites such as this one are an essential element of their deployment of 5G; they are more efficient to deploy and help avoid coverage not-spots emerging. Furthermore, streetwork sites do not require full planning permission, even though approval of siting and appearance must be determined. The applicant has indicated that the proposed mast is currently at the minimum height possible, and they are willing to paint the mast if this will improve the appearance.

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 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 within the application. The proposed mast and associated equipment will be located close to the back of the pathway on a green verge on the corner of the junction of Meadow Rise and Nine Ashes Road, within the semi rural village of Blackmore. The grass verge is located directly to the front of a residential property 'Ashridge' and opposite residential houses in Meadow Rise and Nine Ashes Road. The greensward itself is a strip of land with mature hedge and trees along the perimeter of the boundary with 'Ashridge'. The retention of this soft landscaping is outside the gift of the applicant and while it would form a green backdrop offering limited visual relief, it could also be removed at a later date.

The mast would be clearly visible when approaching the site from both directions along Nine Ashes Road and from the west, along Meadow Rise. The siting of the proposal is considered unacceptable. It would have a significant detrimental effect on the character and appearance of the area including its proximity to nearby residential dwellings.

Appearance

The applicant has provided one elevation of the proposed mast and associated cabinets. The mast is 15 m high, the lowest height for a 5G mast and no other alterations can be made in terms of disguising the antennas or reducing the height. The outline of the dwelling to the rear serves to highlight the disparity in heights; the mast is almost double the height of the adjacent residential properties with the splay of cabinets at ground level introducing further clutter. No screening is incorporated into the proposal. The exposed location, the differing shapes, sizes and spacing of the cabinets would mean that the appearance of the proposal would have a significant detrimental effect on the visual amenity of the surrounding area and the amenities of neighbours.

Alternative sites and alterations to the proposed mast have been discussed with the applicant but only painting the mast has been suggested. This would not overcome the concerns raised above.

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 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 telecommunications equipment and supporting infrastructure in a highly prominent location and given their siting and appearance would be detrimental to the character and visual amenity of the area and of nearby residents of Nine Ashes Road and Meadow Rise. 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. As such it is 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

BACKGROUND DOCUMENTS

DECIDED: