

SITE PLAN ATTACHED

TELECOMS INSTALLATION WARLEY STREET GREAT WARLEY ESSEX

PROPOSED 20M HIGH SLIM LINE PHASE 8 MONOPOLE C/W WRAPAROUND CABINET AT BASE, 3NO. ADDITIONAL ANCILLARY EQUIPMENT CABINETS AND ASSOCIATED ANCILLARY WORKS.

APPLICATION NO: 23/00254/PNTEL

WARD Warley **56 DAY DATE** 24 April 2023
EOT 31 July 2023

CASE OFFICER Mr Daryl Cook

Drawing no(s) relevant to this decision: 265 PROPOSED SITE ELEVATION/B; 002 SITE LOCATION PLAN/B; 215 PROPOSED SITE PLAN/B; 302 CRANE LOCATION/B;

The application is reported to the Planning Committee in accordance with the requirements of the Councils constitution.

1. Proposals

The application relates to a permitted development proposal for a 20m high slim line phase 8 monopole, 3no. additional ancillary equipment cabinets and associated ancillary works in Warley Street (highway verge/land outside of Peri). The scheme includes the laying of paving slabs to the rear of the cabinets. The applicant is a telecommunications code system operator (CK Hutchison Networks (UK) Ltd known as 'Three').

The application site is located along the highway verge on the eastern side of the B186 (Warley Street). The site occupies a comparatively small section of the verge, 3500mm from the carriageway edge, outside of Peri Ltd and within the context of the two Grade II Listed Buildings BRICK HOUSE HOTEL, List UID: 1263167 and HULMERS, List UID: 1250605.

The application is accompanied by drawings depicting the site location, block plans of the siting of the monopole an equipment and a one sided elevation of the monopole and equipment. The mast would provide 5G telecoms per the application form. The mast and the cabinets would be finished in Fir Green (RAL 6009).

The applicant has been asked to supply additional information to consider the impacts upon highway safety and necessary evidence to justify the proposed development

considering alternative locations, particularly within the context of the two Grade II Listed Buildings.

Only a revised drawing to consider interception with visibility splays and a '*Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines*' have been submitted (19.06.23) upon this request.

2. Policy Context

The Brentwood Local Plan 2016-2033

The Plan was adopted as the Development Plan for the Borough on 23 March 2022. At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

- Policy BE06 Communications Infrastructure
- Policy BE14 Creating Successful Places
- Policy BE16 Conservation and Enhancement of Historic Environment

National policy and guidance

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

3. Relevant History

- N/A

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/>

This application has been advertised by way of neighbour notification letters and public site notice. At the time of writing this report, two neighbour representations have been received for this application both objecting to the development. Their comments are summarised below:

- Within close proximity to two listed buildings and the proposed development would "dwarf" both buildings and dominate their setting contrary to The General Permitted Development Order and Telecoms Code
- No alternative sites have been suggested and no justification submitted for this proposal.

- The PERI building will block signals to a considerable area, particularly toward the A127.

Site allocations E10 and E11 would be more suitable alternatives for the equipment proposed.

5. Consultation Responses

- **Environmental Health & Enforcement Manager:**

Environmental Health has no comments to make.

- **Highway Authority:**

The information that was submitted in association with the application has been fully considered by the Highway Authority. The applicant has submitted a revised plan and the cabinets will be sited clear of the existing visibility splays, therefore:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to Development Management policies (A through E).

- **Historic Buildings and Conservation Officer:**

Thank you for consulting Built Heritage on this application which pertains '20m high slim line phase 8 monopole c/w wraparound cabinet at base, 3no. additional ancillary equipment cabinets and associated ancillary works'.

The proposed site is within the setting of the Grade II listed buildings of BRICK HOUSE HOTEL, List UID: 1263167 and HULMERS, List UID: 1250605. From my assessment of the information before me the application fails to meet Para 194 of the NPPF which sets out 'an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary'.

Notwithstanding this commission to comply with Para 194; from my own assessment of the proposals, I find there would be a level of material harm upon the setting of both listed buildings, engaging Para 202 of the NPPF. It is recognised there has been a diminution to setting through C20th development, however a more sensitive location is urged to be sought in the interests of setting and character to the street scene.

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

No comments received at the time of writing this report.

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 Government is strongly supportive of telecommunications networks and the significant social and economic benefits they provide to individuals, businesses and other organisations as set out within Chapter 10 of the NPPF. The proposal would provide significant public benefits in the form of maintaining and improving network coverage and enabling future technologies, i.e. 5G.

Paragraph 117 of the NPPF states: “*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.*”

As indicated previously when considering similar proposals, 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.

The committee is aware that the determination period for this type of application is limited to a maximum of 56 days, unless extended by agreement, and if no decision is made within that period the developer may proceed without delay. In this instance, the applicant has agreed an extension of time to **31 July 2023**, to issue the decision following the committee meeting.

Policy Context

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 practice that the policies of the Development Plan 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 when considering this type of application.

Policy BE06 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, including those of special landscape value or historic interest.

Policy BE14 is a general design policy that supports 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 deliver safe inclusive and accessible places.

Policy BE16 (Conservation and Enhancement of Historic Environment) requires development within the setting of a heritage assets to be of a siting, design and scale that would preserve or enhance its character or appearance and important views into and out of the area, and where possible to enhance the significance of the assets and its settings. The policy requires development to provide sufficient information on the significance of the heritage asset, the potential impacts of the proposal on the character and significance of the asset, its setting and how the proposal has been designed to take these factors into account. No assessment has been provided as part of this application, though it is noted that this is not a requirement of a prior notification application.

S66 (1) of the Planning and Listed Building and Conservation Areas Act 1990 requires decision makers to have special regard to the desirability of preserving the Listed Building and its setting or any features of special architectural or historic interests which it possesses.

When considering proposals which are likely to cause harm to such an asset consideration will be given to:

- The significance of the assets and its setting, and
- The extent to which the scale of any harm or loss of harm has been minimised

The NPPF advises within para 202 that “*where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*”.

Siting

The application includes details of the siting of the equipment. The 20m high mast and 1.7m high equipment is located adjacent to an existing sign and adjacent the vehicular access to Peri Ltd. The position of the mast is particularly prominent within the immediate street scene. The application site (red outline) is limited and there appears to be limited scope for moving the equipment within the confines of this highway verge.

Alternative sites, such as the Brentwood Enterprise Park development or within Peri itself have been suggested to the applicant. However, the applicant has not responded to those suggestions. In failing to consider alternative sites, it is considered the proposal would fail to justify the siting of this development in this location, contrary to the requirements of para 117 of the NPPF.

Furthermore, as a prominent form of equipment reaching a maximum height of 20m and towering above existing highway apparatus (i.e., 8m high lamp posts) and palisade fencing (2.4m high) as illustrated within drawing ref: 265 (Elevations). It is considered that the mast would appear both incongruous and dominant within this area and diminishing the setting of the Grade II Listed Buildings amounting to 'less than substantial' harm as identified by the Historic Buildings and Conservation Officer. Para 202 of the NPPF is therefore engaged and this is considered within the Planning Balance section of the report.

The Highway Authority has reviewed the submission and conclude that the siting of the telecommunications equipment would not intercept the visibility splay for the adjacent site access to Peri and therefore raises no objection to the scheme.

The siting of the proposal would have a significant and demonstrable detrimental effect upon the character and appearance of this area. The proposed development is considered to be contrary to policies BE06, BE14 and BE16 insofar as they relate to siting (and appearance) and consequently it is recommended that approval of siting is required and refused.

Appearance

The application includes details of the appearance of the equipment. All of the apparatus associated with the telecoms equipment proposed would be RAL 6009 (Fir Green), a colour which is considered acceptable in principle. However, as submitted the appearance of the proposal is also considered to be unacceptable. It would be of great prominence within this immediate area given its overall height and location on the highway verge and within the setting of the heritage assets.

It is therefore recommended that approval of appearance is also required and refused.

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.

Outside the planning system, all operators of radio transmitters are under a legal obligation to operate those transmitters in accordance with the conditions of their license. Operation of the transmitter in accordance with the conditions of the license

fulfils the legal obligations in respect of interference to other radio systems, other electrical equipment, instrumentation, or air traffic systems. The conditions of the license are mandated by Ofcom, an agency of national government, who are responsible for the regulation of the civilian radio spectrum. The remit of Ofcom also includes investigation and remedy of any reported significant interference.

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 strongly supports 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 improving network coverage and enabling future technologies.

This report focuses consideration of the proposal to matters relating to siting and appearance of the development including the harm to heritage assets. Ultimately, the decision on this type of application often rests on the relative weight given to the harm and benefits associated with a proposal. However, on this occasion, it is considered that the harm is not outweighed by the advantages and the necessary information to justify the development (para 117, NPPF) has not been submitted. For the reasons outlined above, prior approval is required in this case but this proposal fails to accord with the policy requirements of policies BE06, BE14 and BE16 insofar as they relate to siting and appearance. Consequently, this application is recommended for refusal.

7. Recommendation

The Application be REFUSED for the following reasons:-

R1 Prior approval is required for siting and appearance of the development and prior approval of the details supplied with the application is refused. The proposal is unacceptable because it would result in the provision of telecommunications equipment and supporting infrastructure in a highly prominent location, within the setting of Grade II Listed Buildings (BRICK HOUSE HOTEL, List UID: 1263167 and HULMERS, List UID: 1250605) and would be detrimental to the character and visual amenity of the area. The proposal is contrary to policies BE06, BE14 and BE16 insofar as they relate to siting and appearance of the Brentwood Local Plan and the aims and objectives of the National Planning Policy Framework with particular regard to paragraph 117.

Informative(s)

1 INF05

The following development plan policies contained in the Brentwood Local Plan 2016-2033 are relevant to this decision: BE06, BE14, BE16, National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG).

2 INF20

The drawing numbers listed above are relevant to this decision

3 INF23

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: