

SITE PLAN ATTACHED

MAST EA SITE 35064 ONGAR ROAD PILGRIMS HATCH ESSEX

INSTALLATION OF NEW SHARABLE 25M LATTICE MAST. TO INCLUDE A BASE STATION, 2.4M HIGH PALISADE FENCING, 6NO. OPERATOR CABINETS, 1 NO. METER CABINET, NO.2 DISHES, 6NO. ANTENNAS, AND ANCILLARY DEVELOPMENT.

APPLICATION NO: 23/01238/PNTEL

WARD	South Weald	Confirmed 56 day date	28 November 2023
CASE OFFICER	Mike Ovenden		
Drawing no(s) relevant to this decision:	100A, 101A, 201A, 301A		

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

1. Proposal

The application is a permitted development prior notification for a new 'shareable' 25 metre tall lattice mast, six equipment cabinets and one meter cabinet (within a compound secured by 2.4 m tall palisade fencing), two dishes, six antennas. An elevation is provided (see drawing 301 Proposed Site Elevation). The mast would have a footprint of just over two metres by two metres and the fenced compound would be ten metres by ten metres.

The applicant states on the application form that there have been no pre application discussions, and no neighbour or community consultation.

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 At the same time the Brentwood Replacement Local Plan, August 2005 (saved policies, August 2008) was revoked.

- Strategic Policy MG02 Green belt

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

National Planning Policy and Guidance

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

3. Relevant History

- Telecommunications masts 2002 (02/00030/TEL) and 2003 (03/00008/TEL).

4. Neighbour Responses

- None received

5. Consultation Responses

- **Basildon Fire Station:** The proposal would not affect access to existing premises or to water supplies/fire hydrants. No objections.
- **Environmental Health & Enforcement Manager:** Environmental health has no comments to make regarding this application.

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 the provided details are acceptable.

The Government strongly supports telecommunications networks and the significant social and economic benefits they provide to individuals, businesses and other organisations. The proposal could potentially provide public benefits in the form of maintaining and improving network coverage and enabling future technologies. Chapter 10 of the NPPF provides the Governments positive view on the planning aspects of telecommunication developments.

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 to a determination date of 28 November 2023 though it would be wise to determine the application before that.

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 practice that the policies of the Brentwood Local Plan 2016-2033 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.

The site is in the green belt, which in accordance with Policy MG02 and the NPPG, should be protected from inappropriate development unless justified by very special circumstances. However, the principle of development is established by the General Permitted Development Order. On that basis the authority does not seek to roll back the principle but to keep to the issues of siting and appearance. The applicant has taken a different approach and seeks to claim very special circumstances. These relate to the potential advantages of mast sharing and of the technologies that could be supported by such development. The potential benefits of the proposal are considered later.

Policy BE14 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 have satisfactory access and parking and can be accommodated by local highway infrastructure.

Policy BE16 requires development within the setting of heritage assets, including Conservation Areas, 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 asset 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. The application site is approximately 200 metres to the east of Weald Park Conservation Area.

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 area and avoiding harm to sensitive areas, including those of special landscape value or historic interest.

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.

Siting

The applicant has included details of siting within the application. The proposed mast and associated equipment would be set on a field margin adjacent to allotments from where it would be highly visible. Furthermore, the site would be of the order of 50 metres from the boundary of the allocated residential development site at the Sow and Grow Nursery (Policy R07 - for around 38 dwellings). While there is a fringe of vegetation adjacent to the site, the scale of the mast is such that it would be much greater than the height of vegetation. The mast would be a dominating feature for occupiers of this committed residential development.

The site is about 200 metres to the east of the Weald Park Conservation Area where it would be visible over the fields. It's a matter of judgement but at that distance it is not considered that it would be a harmful feature when viewed from within the Conservation Area, however the applicant has provided no assessment, though none is required with this sort of application. On that basis the proposal is not considered contrary to Local Plan Policy BE16.

The proposed site access plan shows the proposal would not give rise to problems relating to access via Calcott Farm, parking and can be accommodated by local highway infrastructure.

For the reasons given above, it is recommended that approval of siting is required and refused, subject to assessing the planning balance.

Appearance

The applicant has provided an elevation of the proposed mast and associated cabinets. A lattice mast is a significant feature, it allows light and sight through its structure but has a greater silhouette than a simple monopole. At 25 metres in height, it would have a significant visual presence, particularly close by, that would not be materially mitigated

by existing vegetation. The appearance of the proposal would have a significant detrimental effect on the appearance and character of the surrounding area when viewed from the allotments and committed residential development site. The applicant has indicated that the mast would have a galvanised finish, cabinets RAL 7035 'Light Grey' and fencing 'Fir Green' (RAL 6009) but indicated that it would consider other colours for the proposal. It is not considered that a different colour choice would overcome the issues identified above.

For the reasons given above, it is recommended that approval of appearance is required and refused, subject to assessing the planning balance.

Other Matters

A Declaration of Conformity with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines has been submitted with the application. It states that the equipment proposed in the application is designed to be in full compliance with the requirements of the radio frequency (RF) public exposure criteria as defined by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), as set out in "ICNIRP Guidelines, for limiting exposure to electromagnetic fields (100KHz to 300GHz)", in all areas permissibly accessible to members of the public. 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 licence. Operation of transmitters in accordance with the conditions of the licence fulfils the legal obligations in respect of interference to other radio systems, other electrical equipment, instrumentation, or air traffic systems. The conditions of the licence are mandated by Ofcom, an agency of national government, who is responsible for the regulation of the civilian radio spectrum. The remit of Ofcom also includes investigation and remedy of any reported significant interference.

The planning balance

The application is made by a telecommunications code system operator (in this case 'Icon Tower' – status granted by OFCOM in January 2022 – at the time the company was known as Radius BTS Ltd). Icon Tower does not operate a retail mobile network of its own and instead gathers lease premiums to develop its portfolio of infrastructure for the purpose of providing access to all wireless network operators on a shared basis. The mast would be made available to MNOs (Mobile Network Operators – for example EE, Vodafone, O2 and 3). The applicant has suggested that rural wireless broadband and other essential networks could also use the mast.

The accompanying documentation states:

“In the UK, Icon Tower is an Electronic Communications Code Operator (Code Operators) and reflecting its operations, it is an “Infrastructure System” provider. An infrastructure system is essentially a network of sites where passive infrastructure is made available for sharing by other operators. In the UK, Icon Tower has an established portfolio of sites hosting MNOs. In addition to this, Icon has access to a further 1,600 locations held by the wider Radius group and which also host a variety of operators.”

The applicant states that currently MNOs build for their own specific purposes and this often results in uncoordinated masts that aren't shared. The applicant refers to the proposed mast as a "multiuser structure with secure compound and upgraded power supply will enable a consolidation of equipment and in time lead to the removal of unused infrastructure from the wider site and cell area." It may be useful where so called 'densification', cell splitting, is necessary to increase bandwidth. The applicant infers that installations such as this may be helpful in the roll out of "5G, 6G and beyond" and other forms of equipment, for example for medical equipment linked to mobile networks.

The mast is of a design which allows it to be shared by other users' equipment. There is an existing monopole mast approximately 30 metres to the south east of the site. That monopole mast appears to be around 20 metres in height and is for O2.

The identified harm relating to siting and appearance, must be weighed 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. National and local policy encourages mast sharing to limit the number of masts. The proposal could potentially provide public benefits in the form of supporting the maintenance and improvement of network coverage and capacity, enabling future technologies while limiting or removing clutter from the environment.

However, the applicant has provided no evidence of other sites being investigated and discounted, or associated explanation. It has provided no evidence relating to the need for this development. In discussion with the applicant, it appears there is no commitment by any operator to use the mast. It is simply relying on a generic argument about the merits of mast sharing. While it is claimed that "This is required to facilitate enhanced network coverage for the Mobile Network Operators" and "will enable a consolidation of equipment and in time lead to the removal of unused infrastructure from the wider site and cell area". There is no evidence provided that the development would be of any interest to MNOs or in the right place for their networks.

When discussing other proposals, MNOs frequently indicate that the relevant search area for sites is very small and it cannot be assumed that this proposal would be wanted by any operator. There are three masts in the vicinity (including one approximately 30 metres to the south) and no information has been provided that its operator(s) would want to relocate. Indeed the applicant says "for legal reasons, it is not possible to take the existing mast down, however to prevent the proliferation of masts Icon Tower has decided to collocate the mast nearby an existing one". However, in proposing a new mast it is bringing about proliferation, unless MNOs do transfer and remove their own masts.

This report focuses consideration of the proposal to matters relating to siting and appearance of the development. Harm has been identified with regard to siting and appearance. 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 benefits. For the reasons given above this proposal fails the requirements of policies BE14 and BE06 and this application is recommended for refusal.

7. Recommendation

Prior approval is required prior approval is refused:

R1 U0053873 Unacceptable siting and appearance

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 a telecommunications mast and equipment of unacceptable siting and visually dominating appearance in a prominent location close to a site allocated in the Development Plan for residential development. The proposal would not by itself sustain, provide or enhance any mobile network and there is no confidence that the proposal would be used by Mobile Network Operators or other providers and therefore there are no benefits to out weigh the visual harm of the development which currently represents an additional mast in the countryside. The proposal would be contrary to policies BE06, BE14 of the Brentwood Local Plan and the National Planning Policy Framework.

Informative(s)

1 INF05 Policies

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 Drawing Numbers (Refusal)

The drawing numbers listed above are relevant to this decision

3 INF24 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:

