

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2021/1184/PN15
Location: The Galleria Telecommunications Site 61149/WEH010 Comet Way Hatfield AL10 0XR
Proposal: Removal and replacement of 6no antennas. Internal upgrade of existing equipment room and associated ancillary works
Officer: Ms Kirsty Shirley
Recommendation: Prior Approval Refused

6/2021/1184/PN15

Context			
Site and Application description	<p>The application site is located at The Galleria shopping outlet on the southern side of Comet Way and adjacent to Comet Roundabout. The Galleria roof top hosts an existing base station which is an established feature of this streetscape and serves a high density of users in this urban environment.</p> <p>The development seeks to upgrade the existing site which comprises the removal of 6no existing antennas to be replaced with 6no new antennas with associated ancillary works.</p>		
Constraints (as defined within WHDP 2005)	<p>PAR - PARISH (HATFIELD) - Distance: 0 Wards - Hatfield Central - Distance: 39.88 A4HD - Article 4 HMO Direction - Distance: 0</p>		
Relevant planning history	<p>Application Number: S6/1985/0025/ Decision: Granted Decision Date: 25 March 1986 Proposal: Site for retail and associated leisure complex, hotel and swimming pool, garden centre, residential housing and offices and access and car parking</p> <p>Application Number: S6/1987/0075/FP Decision: Granted Decision Date: 06 April 1987 Proposal: Retail development with associated leisure</p>		
Consultations			
Neighbour representations	Support: 0	Object: 0	Other: 0
Publicity	<p>Site Notice Display Date: 19 May 2021 Site Notice Expiry Date: 10 June 2021 Neighbour notification letter</p>		
Summary of neighbour responses	None received		

Consultees and responses	<p>Hatfield Town Council – no response WHBC Planning Policy – no response:</p> <p>WHBC Public Health and Protection – Comment: <i>Recommend planning application is permitted</i></p> <p>HCC Hertfordshire Transport Programmes & Strategy – Comment: <i>Subject to the informatives, this level of development is unlikely to lead to demonstrable harm to the highway network in terms of free flow and capacity therefore; the highway authority would not wish to restrict the grant of planning permission.</i></p> <p>Highways England – Comment: <i>offer no objection *on the basis that we are satisfied that the proposal will not materially affect the safety, reliability and/or operation of the Strategic Road Network (the tests set out in DfT Circular 02/2013, particularly paragraphs 9 & 10, and MHCLG NPPF2019, particularly paragraphs 108 and 109) in this location and its vicinity.</i></p>
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Main Issues	
<p>The main planning issues with this application are:</p> <ul style="list-style-type: none"> a) Is the development permitted under The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016, Part 16, Schedule 2, Class A, communications or does it need Prior Approval or Planning Permission b) Whether the prior approval is required for the siting and appearance of the development. <p>A) Is the development permitted under The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016, Part 16, Class A, communications or does it need Prior Approval or Planning Permission?</p> <p>Development is permitted by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of—</p> <ul style="list-style-type: none"> a) the installation, alteration or replacement of any electronic communications apparatus, b) the use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or c) development ancillary to radio equipment housing. <p>A.1 (1) <u>Development not permitted: ground-based apparatus</u></p> <p><i>Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than on a building) is not permitted by Class A(a) if -</i></p> <ul style="list-style-type: none"> a) in the case of the installation of apparatus (other than a mast) the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level; 	

- N/A

- b) in the case of the alteration or replacement of apparatus already installed (other than a mast), the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater; or

- N/A

- c) in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of—
(i) 25 metres above ground level on unprotected land; or
(ii) 20 metres above ground level on article 2(3) land or land which is on a highway;
or

- N/A

- d) in the case of the alteration or replacement of a mast, the mast, excluding any antenna, would when altered or replaced –
(i) exceed the greater of the height of the existing mast or a height of –
(aa) 25 metres above ground level on unprotected land; or
(bb) 20 metres above ground level on article 2(3) land or land which is on a highway;
or

- N/A

(ii) together with any antenna support structures on the mast, exceed the width of the existing mast and any antenna support structures on it by more than one third, at any given height

- N/A

A.1 (2) Development not permitted: building-based apparatus other than small antenna and small cell systems

- The proposal is for 6 replacement antennas with associated ancillary works located on a building.

A.1 (3) Development not permitted: apparatus on masts

- N/A

A.1 (4) Development not permitted: antennas and supporting structures installed, replaced or altered on article 2(3) land or land which is a site of special scientific interest

- N/A

A.1 (5) Development not permitted: apparatus on a dwellinghouse

- N/A

A.1 (6) Development not permitted: small antennas installed, replaced or altered on a building which is not a dwellinghouse

(a) in the case of the installation, alteration or replacement of a small antenna on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse—

(i) the building is on article 2(3) land;

(ii) the building is less than 15 metres in height, and the development would result in the presence on that building of more than 1 such antenna; or

(iii) the building is 15 metres or more in height, and the development would result in the presence on that building of more than 2 such antennas; or

- In this case, the building is 15 metres or more in height, and the development would result in the presence on that building of more than 2 such antennas

A.1 (7) Development not permitted: ground or base area

- N/A

A.1 (8) Development not permitted: driver information systems

- N/A

A.1 (9) Radio equipment housing

- N/A

Having regard to the above, the proposal is not considered to be permitted development and planning permission is required.

The application also needs to meet the requirements under Class A.2 (conditions) and A.3 in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016.

A.3 (2) in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 requires the applicant to notify the Civil Aviation Authority, the Secretary of State for Defence or the aerodrome operation should the site be within 3 kilometres of the perimeter of an aerodrome. In this instance the site is not within 3 kilometres of the perimeter of an aerodrome.

b) Whether the prior approval is required for the siting and appearance of the development

The application is for Prior Approval under A.2 (a) in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 for its siting and appearance.

In determining a prior approval application for development by an electronic communications code operator, the Local Planning Authority must consider the acceptability of the proposal in terms of its siting and appearance only.

Further guidance on siting and appearance is provided by District Plan Policy R21, Telecommunications Development, as well as the National Planning Policy Framework with an emphasis on a need for high quality communications infrastructure. District Plan Policies

D1 and D2 seek a high standard of design for development which respects and relates to its context. Paragraph 112 of the NPPF states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

The proposal seeks to provide higher standards of local service provision through the support of 5G. Significant weight is attached to this public benefit. Paragraph 113 of the NPPF states that where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate. Policy R21 of the District Plan also outlines that all new telecommunications development must not harm the appearance of the street scene nor appear visually intrusive.

Factors to be considered concerning the appearance of a mast/monopole and ancillary apparatus include materials, colour, design and the number of units required. The use of appropriate materials and colouration may allow a mast or equipment to blend more easily into its surroundings. Features of design which an authority may wish to consider include dimensions; overall shape; and whether the construction is solid or forms an open framework. They should also consider with the developer the availability of alternative designs which might be more suited to the local environment. In considering the siting and appearance of a mast together with any associated equipment, the scope for landscaping and screening to reduce the impact of the development on its surroundings is an important consideration.

There are nine requirements under Policy R21 and each will be considered in turn in respect of this proposal:

i) For new free standing masts, the applicant must be able to demonstrate that there are technical reasons which prevent the installation of the apparatus on existing masts, buildings or other structures.

- N/A

ii) New free standing masts must have sufficient spare capacity to allow mast sharing, subject to any technical or environmental constraints, which will be secured by the use of planning conditions or Section 106 Agreements.

- N/A

iii) All applications and determinations must be accompanied by information on the level of emissions likely to be generated by the installation and the level of emissions must fall within the ICNIRP (International Commission on Non-Ionising Radiation Protection) guidelines and the advice contained in PPG8 in relation to emissions near college, school, nursery or pre-school playgroup grounds and buildings.

A declaration of conformity with ICNIRP Public Exposure Guidelines has been provided in this instance to confirm that the installation will conform to all the guidelines set out by ICNIRP.

(iv) Clear public exclusion zones should be placed around all base station antennae together with appropriate warning signs.

The application is for prior approval for the siting and appearance of the development, and

this is not a consideration for this application.

- (v) *All applications and determinations received for mobile phone masts, base stations and transmitters proposed near college, school, nursery or pre-school playgroup locations must include details of consultation in line with PPG8 or its successor.*

The applicant submitted a "Site Specific Supplementary Information" document in support of this site for the equipment stating that there are no schools in proximity to the site.

The siting of the proposal is approximately 0.5 mile away from The University of Hertfordshire De Havilland Campus. A declaration of conformity with ICNIRP Public Exposure Guidelines has been provided in this instance to confirm that the installation will conform to all the guidelines set out by ICNIRP. In such cases, government guidance states that it should not be necessary to consider further the health aspects and concerns about them when dealing with an application for prior approval.

- (vi) *The development must not harm the appearance of the street scene nor appear visually intrusive*

The proposed development would be situated on the roof top of the Galleria. The Galleria is a shopping outlet on the southern side of Comet Way and adjacent to the Comet Roundabout. The surrounding area is comprised of a mixture of land uses including a university campus, business estate and a residential area.

The design and access statement submitted with this application outlines that the antennas have designed to be the lowest possible height while ensuring optimal signal propagation towards the wider target area. The design of the proposed works is minimal and the location of the development on top of the roof limits the impact on visual amenity from the street scene. It is considered that the proposed development's siting and design would be acceptable.

- (vii) *The development must not harm the character of a Conservation Area nor the character and setting of a Listed Building.*

The proposal is not located in a conservation area or in close proximity to any Listed Buildings. It is therefore considered not to adversely affect the setting of a Listed Building nor harm the character or appearance of any conservation areas.

- (viii) *If erected on a building, it must not be out of keeping with the building, in terms of siting, scale, size, profile and colour, so as to not harm the appearance of the building.*

The proposed development would be comparable in terms of location and function to the equipment that already exists on the building, and the size and scale of the proposal does not harm the appearance of the building.

- ix) *If proposed in areas designated for their landscape, historic or nature conservation importance, including Conservation Areas and the Green Belt, applicants must be able to demonstrate why sites outside these areas cannot be used.*

- N/A

Conclusion

It is considered that the proposed equipment would be not compliant with Schedule 2, Part 16 Class A of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 by virtue of failing to comply with condition A.1 (6) (a).

Reasons for Refusal:

1. It is considered that the proposed equipment would be not compliant with Schedule 2, Part 16 Class A of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 by virtue of failing to comply with condition A.1 (6) (a).

REFUSED DRAWING NUMBERS

2.

Plan Number	Revision Number	Details	Received Date
002	C	Site Location Plan	12 April 2021
150	C	Existing Elevation A	12 April 2021
265	C	Proposed Elevation	12 April 2021
100	C	Existing Site Plan	19 April 2021
215	C	Proposed Site Plan	19 April 2021

Determined By:

Mr Mark Peacock
14 June 2021