

**WELWYN HATFIELD BOROUGH COUNCIL
ASSISTANT DIRECTOR (PLANNING)**

DELEGATED APPLICATION

Application No: 6/2023/0527/PN15
Location: Albatross Way Hatfield Business Park Hatfield AL10 9GL
Proposal: Prior approval for the installation of 15.0m phase 8 monopole and associated ancillary works
Officer: Ms Kirsty Shirley

Recommendation: Prior Approval Required and Granted

6/2023/0527/PN15

Context			
Site and Application description	<p>Prior approval for the installation of 15.0m phase 8 monopole and associated ancillary work.</p> <p>During the course of this application, the proposed mast was altered in design to be slimmer and the proposed colour and finish of the mast and ancillary equipment has been altered from galvanised steel grey to Fir Green.</p>		
Constraints (as defined within WHDP 2005)	<p>SAG - 0 - Distance: 0 SCA - 93253466.3872 - Distance: 0 PAR - PARISH (HATFIELD) - Distance: 0 Wards - Hatfield Villages - Distance: 0 HHAA - Hatfield Heritage Assessment Area(Ellenbrook Field) - Distance: 0</p>		
Relevant planning history	None		
Consultations			
Neighbour representations	Support: 0	Object: 0	Other: 0
Publicity	<p>Site Notice Display Date: 22 March 2023 Site Notice Expiry Date: 14 April 2023 Neighbour notification letter</p>		
Summary of neighbour responses	None received		
Consultees and responses	<p>WHBC Public Health and Protection – comment: <i>No issues to raise.</i></p> <p>HCC Hertfordshire Transport Programmes & Strategy – comment: <i>No objections</i></p> <p>WHBC Planning Policy – no response Hatfield Town Council – no response University of Hertfordshire Estates Department – no response</p>		

Main Issues

The application is made under the provisions of The Town and Country Planning (General Permitted Development) Order 2015 (as amended), Part 16, Schedule 2, Class A. The main planning issues with this application are therefore:

- a) Whether the development is permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Part 16, Schedule 2, Class A and does it need prior approval?
- b) Whether the prior approval is required for the siting and appearance of the development.

A) Is the development permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015, Part 16, Class A, communications (as amended) and does it require prior approval?

A. 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—

- 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.

A.1 (1) Development not permitted: ground-based apparatus

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 –

- 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;

- would comply

- b) in the case of the alteration or replacement of electronic communications 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;

- The proposal is not for the alteration or replacement of existing apparatus.

- c) in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of—

- i. 30 metres above ground level on unprotected land; or
- ii. 25 metres above ground level on article 2(3) land or land which is on a highway.

- The proposed mast would not exceed 25 metres above ground level on article 2(3)

land.

d) in the case of the alteration or replacement of a mast, the height of the mast, excluding any antenna, would when altered or replaced exceed the greater of the height of the existing mast or a height of—

- i. 30 metres above ground level on unprotected land; or
- ii. 25 metres above ground level on article 2(3) land or land which is on a highway; or

- *The proposal is not for the alteration or replacement of an existing mast.*

e) in the case of the alteration or replacement of a mast—

- i. the mast is on any land which is, or is within, a site of special scientific interest; and
- ii. the mast would, when altered or replaced, exceed the original width of the mast by more than one third.

- *The proposal is not for the alteration or replacement of an existing mast.*

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

- *Not applicable as the development is not for the installation, alteration or replacement of electronic communications (other than small antenna and small cell systems) on a building.*

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

- *Not applicable as the development is not for the installation, alteration or replacement of electronic communications apparatus (other than an antenna) on a mast.*

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

- *Not applicable as the development is not for antennas and supporting structures in this context.*

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

- *Not applicable as the development would not consist of the installation, alteration, or replacement of any electronic communications apparatus on a dwellinghouse or within the curtilage of a dwellinghouse.*

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

- *Not applicable as the proposal is not for small antennas installed, replaced or altered on a building which is not a dwellinghouse.*

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

- The development would comply.

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

- *Not applicable as the development is not for the installation, alteration or replacement of*

system apparatus within the meaning of section 8(6) of the Road Traffic (Driver Licensing and Information Systems) Act 1989 (definitions of driver information systems etc).

A.1 (9) Radio equipment housing

- *The development would comply.*

A.1 (10) Public call box

- *Not applicable as the development is not for the installation, alteration or replacement of a public call box*

The proposed development is therefore considered to be compliant with Class A.1 in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016 with amendments in 2022.

However regardless of the above it should also be noted that 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 (as amended from 2022).

A.2 (c) in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended from 2022) requires the siting and appearance of any development which is visible from a site which is—

- (i) article 2(3) land;
- (ii) a scheduled monument or a listed building;
- (iii) the curtilage of a schedule monument or a listed building;
- (iv) a World Heritage Site;
- (v) a site designated by the Secretary of State under section 1 of the Protection of Wrecks Act 1973(1); or
- (vi) land registered by Historic England in a register described in section 8C of the Historic Buildings and Ancient Monuments Act 1953(2), are such that the visual impact of the development on the site is minimised so far as practicable, taking into account the nature and purposes of the site;

This assessment will take place below.

A.2 (d) in in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended from 2022) requires the siting of any development is such that it—

- (i) does not prevent pedestrians from passing along a footway;
- (ii) does not prevent access to premises adjoining a footway; and
- (iii) is determined having regard to –
 - (aa) the needs of disabled people; and
 - (bb) the guidance document “Inclusive Mobility” issued by the Department for Transport in December 2021(3).”.

This assessment will take place below.

A.3 (2) in in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended from 2022) 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.

A.3 (4) in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended from 2022) states that before beginning the development described in paragraph A.2(3), the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development.

This assessment will take place below.

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

This application is for prior approval under in Part 16 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended from 2022). In determining a prior approval application for development by an electronic communications code operator, the Local Planning Authority must consider the conditions within the legislation.

The Hertfordshire County Council Highways Authority have commented that the siting of the mast and cabinets are proposed on the grass verge will maintain the usable space on the nearby pavement and will therefore not impede pedestrian flow and will also not impede on the safety of passing motorists.

It is important to note that the applicant has submitted a Declaration of Conformity with ICNIRP Public Exposure Guidelines. The Council's Public Health and Protection team did not raise any concerns.

Further guidance on siting and appearance is provided by District Plan Policy R21, (Telecommunications Development), as well as the National Planning Policy Framework which supports 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 115 of the NPPF states that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. The use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. 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 concern 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 for completeness each will be

considered in turn in respect of this proposal below. However, it is worth reiterating that the prior approval legislation only allows for the siting and appearance of the development to be considered:

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.

Paragraph 117(c) of the NPPF states that for a new mast or base station, evidence should be submitted that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. The supporting information submitted with the application shows eight other sites in the vicinity which were considered and the reasons for why they were discounted.

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.

The supporting information submitted with this application discusses mast sharing in relation to the sequential approach of searching for sites outlined by the NPPF. The supporting information outlines that there are no suitable structures or properties in the locality that would support site sharing and so site sharing is not an option in this case.

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.

Paragraph 117(c) of the NPPF states that when an application for a new mast or base station is submitted it should be accompanied by a statement which self-certifies that, when operational, International Commission guidelines will be met. 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. This certificate confirms that the mast meets the guidelines for public exposure. Beyond this, the health effects in relation to the development or concerns about them cannot be considered further by the Local Planning Authority under a prior approval application. This is confirmed under Paragraph 118 of the NPPF which states that Local planning authorities must determine applications on planning grounds only and must not question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

(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 submitted information with this application states there are no schools within close proximity to the site. While the De Havilland Campus of the University of Hertfordshire is located approximately 200m directly from the application site, 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

Policies D1 and D2 of the District Plan aim to ensure a high quality of design and that development respects and relates to the character and context of the locality. These aims are consistent with the NPPF which sets out the view of the Government in respect of good design, indeed this is noted as forming a key aspect of sustainable development as it can contribute positively to making places better for people.

The proposed mast has been located towards the outskirts of a predominantly residential area of Hatfield, in an effort to minimise any impact on visual amenity for the nearby residents. There are many streetlights in proximity to the location of the development and wider area which share similar vertical columns to the mast. Substantial vegetation is located along the east side of Albatross way, creating a backdrop the mast would be seen against. During the course of the application, amended drawings were submitted demonstrating a slimmer design for the mast and show that the mast and associated cabinets would be finished in Fir Green (RAL6009).

It is therefore considered that the proposal would not appear intrusive or harmful to the appearance of the street scene.

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 within in a Conservation Area or located within the setting of a Listed Building.

(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 harm the appearance of the building.

The proposed works would not be erected on a 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 of these areas cannot be used.

The proposal is not located within a designated area for its landscape, historic or nature conservation importance.

Conclusion

It is considered that the proposed equipment would be compliant with The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2022, Part 16, Schedule 2, Class A. It is therefore recommended that prior approval is required and granted.

Conditions:

1. The proposed equipment would be compliant with The Town and Country Planning (General Permitted Development) (England) (Amendment) (No.2) Order 2016, Part 16, Schedule 2, Class A.

DRAWING NUMBERS

2. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
002	B	SITE LOCATION PLAN	25 April 2023
100	B	EXISTING SITE PLAN	25 April 2023
150	B	EXISTING ELEVATION A	25 April 2023
210	B	PROPOSED SITE PLAN	25 April 2023
260	B	PROPOSED ELEVATION	25 April 2023

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

Informatives:

1. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

2. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

3. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be

sought from the Highway Authority before construction works commence. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

4. All cabinets/poles should be installed in accordance with the Department for Transport 'Design Manual for Roads & Bridges' (Cabinet Siting and Pole Siting Code of Practice, Section 4.1.2). Equipment where a request is made for a departure from the above standards should be submitted to the Highway Authority via the Local Planning Authority for prior approval.

The applicant is advised that they are not authorised to carry out any work within the Public Highway without a valid permit in accordance with the Permit Scheme. This consent is separate and additional to any planning permission that may be given. Details of the Permit scheme can be found via the County Councils website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/permit-scheme/east-of-england-permit-scheme.aspx>

5. Noise Control

1. All noisy works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of:

- 8.00am and 6.00pm on Mondays to Fridays

- 8.00am and 1.00pm Saturdays

- and at no time on Sundays and Bank Holidays

2. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.

3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions

4. All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.

5. All machines in intermittent use shall be shut down during intervening periods between work, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.

6. Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.

7. All pile driving shall be carried out by a recognised noise reducing system.

8. Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material

9. In general, equipment for breaking concrete and the like, shall be hydraulically actuated.

10. 'BS 5228 Noise Control on Construction Sites' should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.

11. Any emergency deviation from these conditions shall be notified to the Council without delay

12. Any planned deviations from these conditions for special technical reasons, shall be negotiated with Council at least 14 days prior to the commencement of the specific work.

13. Permissible noise levels are not specified at this stage.

6. Dust control

1. All efforts shall be made to reduce dust generation to a minimum.

2. Stock piles of materials for use on the site or disposal that are likely to generate dust, shall be sited so as to minimise any nuisance to residents or neighbouring businesses. Materials for disposal shall be moved off site as quickly as possible.

3. Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.

Determined By:

Mr Mark Peacock
9 May 2023