

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

DELEGATED APPLICATION

Application No: 6/2023/1099/PN15
Location: Hatfield Avenue Hatfield Business Park Hatfield AL10 9FY
Proposal: Proposed telecommunications installation: Proposed 15.0m Phase 8 Monopole and associated ancillary works
Officer: Ms Jessica Fuller

Recommendation: Prior Approval Required and Granted

6/2023/1099/PN15

Context	
Site and Application description	<p>The application is for prior approval for the installation of 15.0m Phase 8 Monopole and associated ancillary works. The equipment would be positioned on a grass verge along Hatfield Avenue, at the corner of Hatfield Avenue/Gypsy Moth Avenue Roundabout, Hatfield.</p> <p>During the course of this application, the proposed colour and finish of the mast and ancillary equipment has been altered from galvanised steel grey to Fern Green.</p>
Constraints (as defined within WHDP 2005)	<p>SAG - 0 - Distance: 0 PAR - PARISH (HATFIELD) - Distance: 0 Wards - Hatfield Villages - Distance: 23.95 A4HD - Article 4 HMO Direction - Distance: 0 A4DAS - Hatfield Additional Storeys Article 4 Direction - Distance: 0 HHAA - Hatfield Heritage Assessment Area (Hatfield Business Park) - Distance: 0</p>
Relevant planning history	<p>Application Number: S6/1999/0884/FP Decision: Approval Subject to s106 Decision Date: 30 June 2000 Proposal: Residential development comprising 370 dwellings, new roads, cycleways, footpaths, landscaping and public open space</p> <p>Application Number: S6/1999/1064/OP Decision: Approval Subject to s106 Decision Date: 29 December 2000 Proposal: Demolition of existing (unlisted) buildings, removal of runway and other hard standing areas and redevelopment for the following purposes: as a business park comprising uses within use class b1, b2, b8 and sui generis use; housing; new university campus (use class d1 and d2) to include replacement de Havilland sports and social club and associated playing fields; two hotels; primary school and associated facilities; district centre; works of conversion to enable recreation use of existing listed hangar; aviation heritage centre. together with associated highway, transport and service infrastructure (including a strategic transport corridor), landscaping and open space, diversion of Ellenbrook. Means of access to be determined</p>

	<p>Application Number: S6/2000/1307/DE Decision: Granted Decision Date: 12 January 2001 Proposal: Erection of a distribution building (class B8), together with associated parking, service yards and landscaping</p> <p>Application Number: S6/2001/0217/DE Decision: Granted Decision Date: 06 March 2002 Proposal: Construction of spine road (phase 2) and highway works together with associated services</p> <p>Application Number: S6/2001/0577/FP Decision: Approval Subject to s106 Decision Date: 24 July 2003 Proposal: Residential development comprising 370 dwellings, new roads, cycleways, footpaths, landscaping and public open space. (revision to planning permission s6/1999/0884/FP)</p> <p>Application Number: S6/2005/0872/FP Decision: Granted Decision Date: 11 October 2005 Proposal: Variation of Condition 2 Attached to Outline Planning Permission S6/1999/1064/OP to Allow an Additional 5 Years for Submission of Reserved Matters (Up to 29/12/2015)</p> <p>Application Number: 6/2022/2759/FULL Decision: Pending Decision Date: Pending Proposal: Erection of two industrial units for light industrial processes (E(g)(iii)) / general industrial (B2) / storage & distribution purposes (B8) and ancillary office space, with associated parking, access and supporting infrastructure</p>		
Consultations			
Neighbour representations	Support: 0	Object: 2	Other: 0
Publicity	Site Notice Display Date: 30 May 2023 Site Notice Expiry Date: 20 June 2023 Neighbour notification letters.		
Summary of neighbour responses	<p>Two objections have been received from members of the public. All representations are published in full on the Council's website but have been summarised below:</p> <ul style="list-style-type: none"> • It seems no consideration has been made to its location and the impact on the families who live immediately opposite. • Tower is overprominent in this location. • There are plenty of locations very close to this site further along Hatfield Ave & Gypsy Moth Ave that are not as close to homes and would be slightly more discreet for all. • Safety concerns regarding the siting of the equipment at the exit of a roundabout. 		

	<ul style="list-style-type: none"> • HGVs have already hit toucan crossing lights in this location.
Consultees and responses	<p>Public Health and Protection – No objection.</p> <p>Hertfordshire Transport Programmes & Strategy – No objection: Initially objected due to the original plans submitted not demonstrating the proposed location outside the limits of visibility. However, after liaising with the agent, an updated visibility splay plan was sent in, thus overcoming the highways objection. Consequently, highways have since removed their objection.</p>
Main Issues	
<p>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:</p> <ol style="list-style-type: none"> 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? 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) Order 2015, Part 16, Class A, communications (as amended) and does it require prior approval?</p> <p>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—</p> <ol style="list-style-type: none"> the installation, alteration or replacement of any electronic communications apparatus, 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 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> <ol style="list-style-type: none"> 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; <ul style="list-style-type: none"> - <i>No apparatus would exceed a height of 15 metres above ground level.</i> 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—

- article 2(3) land;
- a scheduled monument or a listed building;
- the curtilage of a schedule monument or a listed building;
- a World Heritage Site;
- a site designated by the Secretary of State under section 1 of the Protection of Wrecks Act 1973(1); or
- 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—

- 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 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 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. A discussion has been carried out below.

The Highways Authority have been consulted on this application, with their initial response recommending refusal due to a lack of information. The highways authority stated that no plans were submitted to demonstrate the proposed location of the works was outside the limits of visibility. The objection was with reference to the near by roundabout, meaning a visibility splay would be required in order to show how the proposed works would be outside the visibility splay of vehicles entering the roundabout from the southern arm turning left. The agent subsequently provided this information which satisfied highways concerns. Highways have since therefore removed their objection, stating that permission should not be restricted. Whilst conditions were suggested, these are not considered to meet the tests set out in the NPPF and would be controlled by highway permits outside of the planning system. On this basis, no objections are raised on highway grounds.

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 and outlines mast sharing is not an option for this site.

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 preschool playgroup grounds and buildings.

Concerns have been raised from neighbours regarding potential health implications of the proposed works. 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. The Council's Public Health and Protection team did not raise any concerns.

(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.

Supplementary information sent in with the application shows the proposed works are not proposed near a college, school, nursery, or pre-school playgroup.

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 applicant's Site Specific Supplementary Information document suggests that the design of the proposed mast and ancillary equipment is considered to be the least visually intrusive option available.

Concerns have been raised from neighbours regarding the over prominence of the mast at this location, how the mast should be shared with other masts to avoid the installation at this location, and highway safety concerns.

The proposed mast has been located on the southern side of Hatfield Avenue, approximately 32m from the nearest residential dwelling located to the north. Although the mast would be visible from numerous dwellings, it is located outside of a residential area and within the setting of Hatfield Business Park which is characterised by large commercial buildings, security fencing and highways infrastructure, as well as structural landscaping.

In terms of the over prominence of the mast at this location, the mast has been designed to be as discrete as possible whilst ensuring the provision of an adequate level of service in this area. Discussions have led to the colour of the mast changing from steel grey to fern green in order to blend with the soft landscape backing. Whilst visible from different public vantage points, the proposed monopole would generally be viewed against a backdrop of soft landscaping, thereby minimising its visual impact within the street scene. Although the development would still be prominent, this would soften its appearance and provide some screening of the telecommunications equipment such that it would not be visually intrusive to such a degree to justify a refusal of this prior approval application. A similar approach was taken by the Inspector in relation to appeal APP/C1950/W/22/3291322. Moreover, the cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m meaning that it would not be feasible to site the column outside of this locale. It is therefore considered this location is the most suitable option.

The supporting information sent in with the application shows how mast sharing is not possible in this circumstance. The 5G antennas are some 3 times as heavy as previous antennas, while the associated Remote Radio Units also now need to be placed at the top of the pole, thus many street works designs are no longer structurally capable of hosting all

the equipment of 2 operators. The alternative option that could accommodate two operators would be a more traditional 'greenfield' mast, with an open headframe and more bulky design, which would be inappropriate in a street scene location. There is no such location in this cell search area where a greenfield mast could be housed and thus site sharing is not a viable proposition.

In terms of highway safety concerns, the Highways authority have been consulted for this application and, as previously discussed, removed their initial objection and are now satisfied that the proposal meets highways policy.

It is therefore considered that the proposal has been appropriately designed and its scale and siting would not unacceptably detract from the character and appearance of the area. In the absence of harm, there is no conflict with the design aims of Policies, D1, D2 and RA10 of the Welwyn Hatfield District Plan.

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 proposed works would not be erected in an area designated for their landscape, historic or nature conservation importance, including Conservation Areas and the Green Belt.

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	17 August 2023

100	B	Existing Site Plan	17 August 2023
150	B	Existing Elevation A	17 August 2023
210	B	Proposed Site Plan	17 August 2023
211	B	Splay plan	17 August 2023
260	B	Proposed Elevation A	17 August 2023

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

Informatives:

1. As agreed with the agent, the proposed monopole and associated ancillary works should be installed in Fern Green (RAL6025).
2. 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.

3. 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.

4. 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.

5. 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.

6. The applicant is advised that a license must be obtained from the Highway Authority for any structure to be placed on land forming part of the highway. Prior to commencement of works the applicant is advised to contact the County Council Highways Department via either the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047 to enter into the necessary agreement with the Highway Authority to enable the works to proceed.

Determined By:

Mr Mark Peacock
5 September 2023