

ITEM 2

Prior approval to install a 15m high slim-line monopole, supporting 6 no. antennas, 3 no. equipment cabinets and ancillary development thereto at the Verge On Newbold Road North West Of Junction With Ladywood Drive, Upper Newbold, Chesterfield for CK Hutchinson (UK)Ltd

Local Plan: Unallocated

Ward: Linacre

Committee Date: 22nd May 2023

1.0 CONSULTATION RESPONSES

Ward Members: No objection from former Councillor Simmons.

Local Highways Authority: No highway safety comments to make.

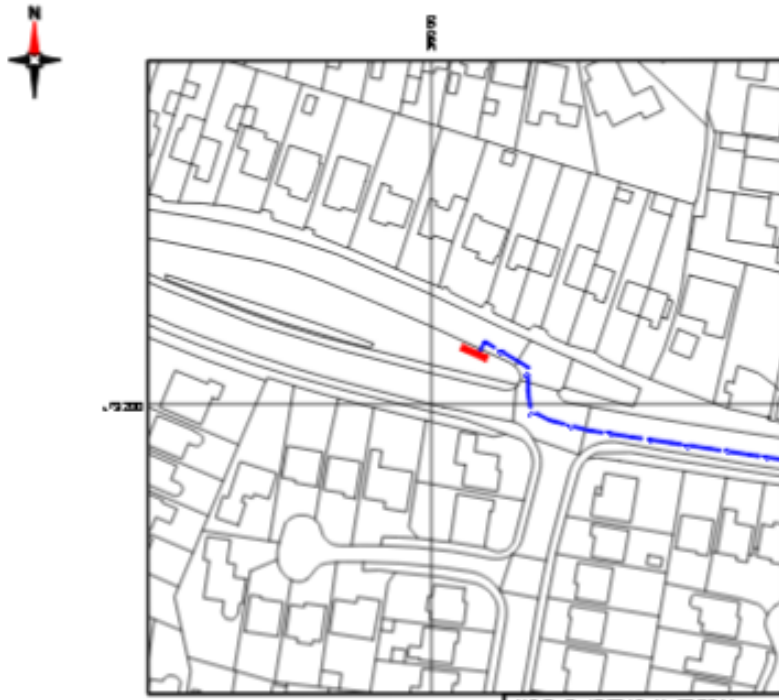
Tree Officer: No objections but if consent is granted then a condition should be attached to restrict any storage of materials, parking of vehicles and machinery or other construction activities within the soft landscaped (grass) area within 10 metres of the London Plane tree to the west of the proposed monopole.

Environmental Health: No adverse comments to make.

Representations: A total of 21 representations from local residents have been received - see report

2.0 THE SITE

2.1 The proposed site is to the eastern end of an area of grass verge which separates the main Newbold Road from the minor road which serves a number of residential properties. There is an existing telegraph pole at the far eastern end of the verge. The verge widens to the west where it includes a number of trees. To the south of Newbold Road is modern housing development, which sits at a lower level with the dwellings to the north siting at a higher level.



Photographs of the site:



3.0 SITE HISTORY

3.1 None.

4.0 THE PROPOSAL

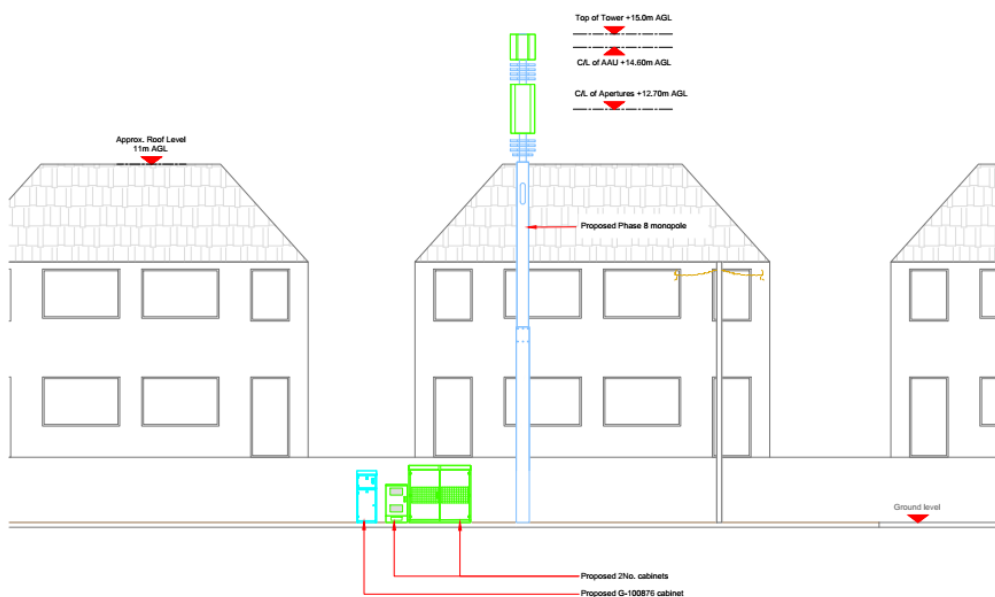
4.1 The application is submitted under Class A, Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, for the consideration of whether the prior approval of the Authority is required as to the siting and appearance of the development.

4.2 The development comprises of a grey steel monopole with a height of 15 metres, with 3 steel grey equipment cabinets with dimensions of: 1.9m x 0.6m x 1.752m (height); 0.65m x 0.7m x 0.95m (height) and 0.6m x 0.52m x 1.585m (height).

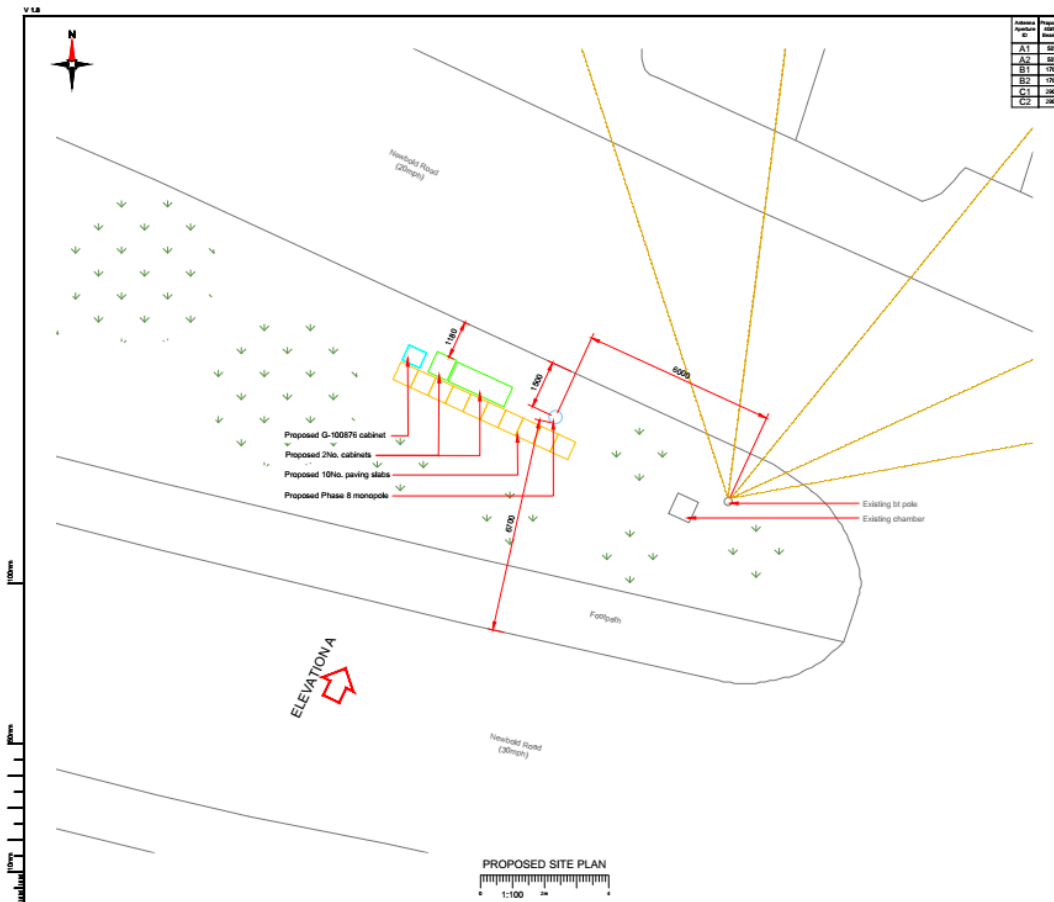
4.3 The following information has also been submitted with the application:

- Site Specific Supplementary information
- ICNRP declaration & clarification statement
- DCMS MHCLG Collaborating for Digital Connectivity
- HM Government Ofcom 5G Guide
- GSMA 5G EMF Exposure Safety
- Extract to Cllr Guide to Connectivity
- Mobile UK Health factsheet

Proposed elevational plan:



Proposed Site plan:



5.0 PLANNING POLICY

Chesterfield Borough Local Plan 2018 – 2035

- CLP2 Principles of Location for Development
- CLP11 Infrastructure Delivery
- CLP14 A Healthy Environment
- CLP20 Design

National Planning Policy Framework (2021)

- Part 10 Supporting high quality communications
- Part 12 Achieving well-designed places
- Part 15 Conserving and enhancing the natural environment

6.0 CONSIDERATIONS

6.1 Procedure

- 6.1.1 This is a telecommunications application for prior approval, which is made under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) – (GPDO). The information submitted is considered to meet the requirements of the aforementioned development order.
- 6.1.2 The application made is not for planning permission, but is purely for a decision by the Local Planning Authority (LPA) as to whether prior approval is necessary for the siting and appearance of the monopole, and if necessary, whether the prior approval is granted or refused.
- 6.1.3 The 3 cabinets proposed are considered to be permitted development under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) as they are less than 2.5 cubic metres in volume and there is no requirement for determination to be sought as to whether the prior approval of the LPA is required for their installation. The merits of these have therefore not been considered as part of this application.

6.2 Principle of Development

- 6.2.1 The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require consideration of the development plan. Regard may be had to the policies of the Local Plan and NPPF only in so far as they are factors relevant to matters of siting and appearance.
- 6.2.2 Para. 117 of the NPPF (2021) sets out that applications for telecommunications (including prior approval) should be supported by the necessary evidence to justify the proposed development. This should include:
- the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
 - for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that when operational, International Commission guidelines in terms of health will be met.

6.2.3 The Planning Statement submitted with the application states there is a specific requirement for an installation in this location to ensure that the latest high-quality 3G and 4G service provision is provided in this area of the town. The proposal would also ensure that new 5G coverage can be provided at this location and would fill a gap in service provision. It states that the search area is very small for this new installation. The existing sites in this area of Chesterfield are struggling to cope with demand and increase in capacity and therefore a new site is required.

6.2.4 With regard to alternative sites, it states the area surrounding the proposed site has been fully investigated and it was considered that the application site was the most viable and suitable location. The statement goes on to note that the majority of the area is dominated by low-density residential properties with narrow pavements which allowed the operator to discount the majority of the search area. As such the area around Newbold Road was investigated and the operator is of the view this is the only viable general location that can accommodate telecoms equipment, given there is a greater amount of footpath available. Further options along Newbold Road were investigated but the precise location was chosen because it offered the most discreet option that provided the most effective coverage, whilst not adversely affecting the amenity of the residential areas.

6.3 Effect of the siting and appearance on the character and appearance of the area

6.3.1 The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, and, if any harm is identified, whether this would be outweighed by the need for the installation to be sited as proposed.

6.3.2 The application site is in a prominent location on a substantial grass verge within Newbold Road, which contains a number of trees and forms a pleasant setting for the dwellings on the northern side of Newbold Road. The applicants interpretation of the dwellings to the north is misleading in that it shows matching two storey semi detached hipped roofed dwellings however it is the case that the design of the dwellings is varied and a number of the dwellings facing the proposed siting are single storey. Although in close proximity to a telegraph pole it would be more than twice its height. The same applies to street lights within the vicinity. The monopole would therefore be visually prominent from both the east and west and in particular from the dwellings on the northern side of Newbold Road. Further the residential development to the south

of Newbold Road sits at a lower level and as such the proposed monopole would appear as a very prominent feature when viewed from the junction of Ladywood Road with Holme Park Avenue and from Holme Park Avenue.

- 6.3.3 In an appeal decision made in January 2023 for a 5G mast at Inkersall, the Inspector found that the siting and appearance of the proposal would have an adverse effect on the character and appearance of the area. Nonetheless, having regard to all relevant considerations, including national planning policy and the lack of alternative sites, the Inspector considered that the operational needs of the appellant and the enhancement of the local telecommunications network, would outweigh such harm. It is considered that the same argument is applicable to this current application.

6.4 Public Health & Fear

- 6.4.1 Proposals such as that applied for, especially where in close proximity to dwellings, can lead to public concerns at the potential for adverse health impacts from the emissions generated by the telecommunications antennae.
- 6.4.2 Guidance in para. 114-118 of the revised NPPF set out the required evidence to justify the proposed development and state that LPAs must determine applications on planning grounds. The NPPF further indicates that they should not seek to question the need for the telecommunications system; or determine health safeguards if the proposal meets International Commission guidelines for public exposure.
- 6.4.3 It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure it should not be necessary for the LPA, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.
- 6.5.4 In considering the public health implications of the proposal, it is considered that the Government and Health Protection Agency are the appropriate bodies for setting guidelines and controls to protect the public, and that significant weight is given to the NPPF and the current approach taken by Government on the matter. In this respect the applicants have certified ICNIRP Guideline compliance for the proposed

installation. Furthermore, given the recent ICNIRP studies' conclusions it would appear that there is no reliable evidence to date that exposure to the electro-magnetic radiation associated with mobile phones and similar technologies can lead to a significant health risk and therefore insufficient reason to deviate from the Government's guidance.

- 6.6.5 Consequently, it is considered that a refusal on grounds of there being a material threat to public health could not be sustained at appeal. Notwithstanding this however, it is likely to be impossible to prove scientifically that no risk exists, and speculation can give rise to a level of public fear which is a material consideration. It is considered that these comments do not outweigh the Government's guidance in the NPPF and that the Planning Authority could not therefore sustain a refusal on grounds of public fear and an adverse effect on amenity as a consequence of this.

7.0 REPRESENTATIONS

- 7.1 21 objections have been received from local residents. The concerns are summarised below:

- location/appearance – unsightly and prominent location, visual eyesore, out of character with a residential area, too close to dwellings, better located away from properties, will spoil a green area, alternative locations further up Newbold Road not as close to properties;
- Public health and safety – not enough scientific evidence to show it does not result in harm to health. No technical details included showing frequencies, output and safety exclusion zones (50m or more is required under ICNIRP's terms)
- Proximity to school
- Ecological harm to nearby trees;
- Question need for another mast;
- Possible adverse impact on property values;
- Negative impact on the environment and to wildlife;
- Invalid site and location plans – the application does not clear or correctly show the area relating to the proposal. There is ambiguity with regard to the area that should be outlined in red.

- 7.2 ***In respect of these, the health issue is addressed above. St Mary's school is nearby but not in close proximity to the site. Government advice is that the need for masts should not be questioned and the potential impact upon property values is not a***

material planning consideration. Although limited in nature the applicant has included information regarding alternative locations. The site is sufficiently distanced from the nearest tree to not have an impact and there is no evidence that it would result in harm to wildlife. The harmful impacts of the proposal are set out within the report. The submitted plans and documents meet the requirement for a prior notification application.

8.0 HUMAN RIGHTS ACT 1998

8.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:

- Its action is in accordance with clearly established law
- The objective is sufficiently important to justify the action taken
- The decisions taken are objective and not irrational or arbitrary
- The methods used are no more than are necessary to accomplish the legitimate objective
- The interference impairs as little as possible the right or freedom

8.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects. The applicant has a right of appeal against a refusal of permission.

9.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

9.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015 and paragraph 38 of 2021 National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF or with 'up-to-date' policies of the Local Plan, it is considered 'sustainable development' to which the presumption in favour of the development applies.

9.2. The Local Planning Authority have considered this application in a positive and proactive way to achieve a positive outcome for the application.

10.0 CONCLUSION

10.1 The telecommunications operator has demonstrated that there is an operational need for the development. The proposed siting and visual impact of the development is considered to have a harmful impact on the visual character and appearance of the area and would be unduly prominent within the streetscene and the proposal does not accord with the requirements of policy CLP20 of the Chesterfield Borough Local Plan 2018-2035 and the National Planning Policy Framework (2021). However, the recent appeal decision at Inkersall referred to above demonstrates that despite such concerns prior approval may be given in circumstances where the operational and locational needs of the applicant and the enhancement of the local telecommunications network, would outweigh such harm. This applies equally to the current application and thus on this basis it is considered that prior approval should be granted.

11.0 **RECOMMENDATION**

11.1 It is therefore recommended that the application be **GRANTED** subject to the conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2) of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority receive the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.