

ITEM 3

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 Junction Between Rother Avenue and Station Road, Brimington for CK Hutchinson Networks (UK) Ltd

Local Plan: Unallocated

Ward: Brimington North

Committee Date: 22nd May 2023

1.0 CONSULTATION RESPONSES

Ward Members: Objection from Cllr Callan – see report.

Local Highways Authority: No highway safety comments to make.

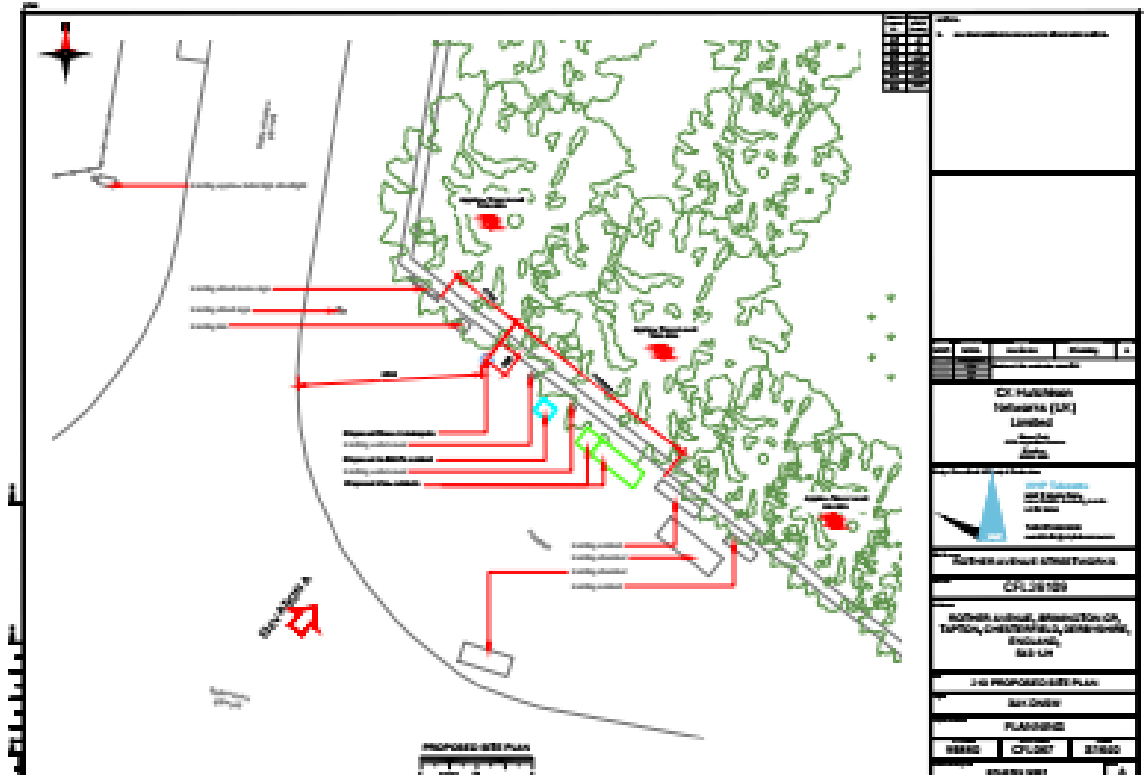
Environmental Health: No objections.

Representations: A total of 13 representations from local residents have been received - see report

2.0 THE SITE

2.1 The proposed site is on a wide pavement on the junction of Station Road (B6050) with Rother Avenue. There are existing equipment cabinets at the back of the footpath adjacent to the brick boundary wall on Station Road. There are a number of tall trees (Evergreen leylandii hedge) behind the wall within the adjacent garden which are approximated to be in the region of 8 to 10m in height.

2.2 The garden is curtilage to the adjacent listed building no. 64 Station Road which is a grade II listed 18th Century stone built house. The surrounding area is residential in character.



Extract of submitted site plan.



Photograph taken from corner of Rother Avenue with Station Road, showing the wall to the adjacent listed building and the leylandii hedge behind the wall.

3.0 SITE HISTORY

3.1 None.

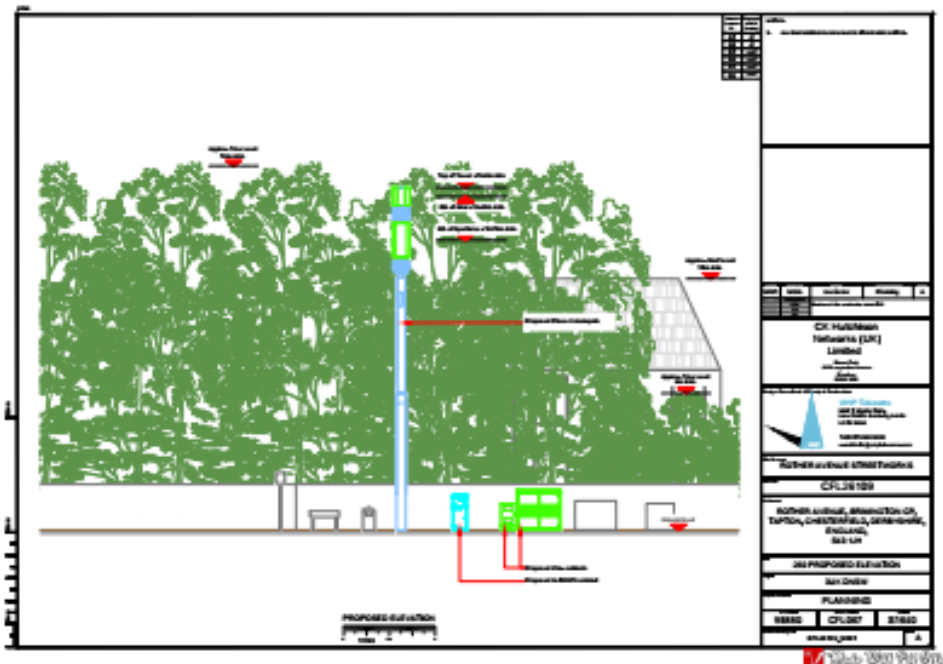
4.0 THE PROPOSAL

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.

4.2.1 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).

4.2.2 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



Extract of submitted elevational plan.

5.0 PLANNING POLICY

5.1 Chesterfield Borough Local Plan 2018 – 2035

- CLP2 Principles of Location for Development
- CLP11 Infrastructure Delivery
- CLP14 A Healthy Environment
- CLP20 Design
- CLP21 Historic Environment

5.2 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
- Part 16 Conserving and enhancing the historic environment

6.0 CONSIDERATION

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). 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.

6.2 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 Brimington 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 states 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 area around the search area. As such the area around Station 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 Station 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.

For reasons given below the location is not considered to be the most discreet nor does it cause no harm.

6.2.5 Following a request for a plan of all the alternative sites considered, the agent responded as follows:

- “The prominence of the site to a limited number of residential properties is accepted and the site was chosen because of the 16m

trees that act as a very effective backdrop. As such the site, although visible, is not skylined and as it is positioned on a corner, will only be clearly visible along a small section of Station Road. As such, the proposal will only have a minor impact on the vast majority of the area and we would contend that the benefits that the proposal will provide in terms of providing a high speed digital network to the area, will outweigh any potential impact.

- In terms of the impact on the nearby properties, we can consider a change of pole from a Phase 8 to a Phase 9 which is a slim streamlined design. In addition, the colour of the pole and cabinets can be changed to Fir Green (RAL6009) which would enable the equipment to further assimilate the equipment with the backdrop of trees. I have enclosed an example and if it would be considered favourably then I would be happy to agree an extension to the 56 day Prior Approval period to allow the Council to reissue their consultations.
- I have enclosed a revised section of the SSSI to include the discounted options, including a plan to illustrate the locations. As the statement previously stated, the area is extremely constrained by a very small search area that a proposal must be located within with very limited options or sites that could even be discounted.
- There are no existing sites in the search area that can be shared.
- There is no minimum distance that a pole should be within from a residential property, with the exception that that it complies with the ICNIRP guidelines. An ICNIRP certificate was provided with the application.
- With regard to the proximity of Brimington Junior School not being noted in the supporting statement, this was because on the basis of the Code of Best Practice, it was not judged as being within close proximity to the site or being affected by its location – the school is 300m from the site and does not have any views of the site from the grounds.”

6.3 Effect of the siting and appearance on the character and appearance of the area including the impact on the setting of the adjacent listed building

6.3.1 The main issue is effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the

setting of the adjacent listed building. If any harm is identified, whether this would be outweighed by the need for the installation to be sited as proposed and set out by the applicant.

- 6.3.2 The application site is in a prominent location on a wide pavement to a road junction, within a residential area and in close proximity to existing dwellings including directly to the frontage of a Grade II listed building.
- 6.3.3 At 15m in height the proposed monopole would be much taller than existing street furniture and adjacent wall. Contrary to the submission it is also considered that the mast would be higher than the existing trees/hedge which are contained within the garden of the adjacent listed building. Whilst the trees in situ would provide some screening to the mast in the local area, it is considered that given the location of the trees in a residential garden, their overgrown nature and the fact that there is no need for any consent to fell these trees, the longevity of the trees is questionable. Such a transient screen to protect the setting of a heritage asset is not considered to be sufficient. Furthermore the mast is considered to be much higher than the trees. It is considered therefore that the mast will result in harm to the setting of the listed building and thereby its significance. The owner of the listed building has not objected to the proposal following consultation and it is possible that concerns regarding the hedge resulting in its reduction or removal would present a very inappropriate relationship between the mast and the heritage asset being situated immediately in front of its main façade.
- 6.3.4 In line with Part 16 of the NPPF, Policy CLP21 of the local plan states that *“In assessing the impact of a proposed development on the significance of a designated heritage asset, the council will give great weight to the conservation of designated heritage assets and their setting and seek to enhance them wherever possible”*. The policy goes on to say *“Where a development is likely to result in harm to, or a degree of loss of significance of designated heritage assets and/or their setting, planning applications should be accompanied by evidence that sets out:*
- 1. a description of the significance of the affected assets and their setting and an assessment of the nature and degree of impact on this;*
 - 2. an evaluation of how harm or loss would be avoided, minimised or mitigated;*
 - and*
 - 3. a clear and convincing justification for the development and the resulting harm or loss.*
- Such an assessment of the impact on the setting of the listed building, in line with the NPPF, has not been provided in this case.

- 6.3.5 Para 202 of the NPPF notes the need to consider public benefits against less than substantial harm as would be caused here. Whilst there are public benefits arising from the installation due to the network benefits, it is not considered that this harm is outweighed in this case given the clear relationship between the site of the mast and views of the listed building and the close proximity between the two.
- 6.3.6 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. However, this proposal is considered different to this case in that the impacts relate to the setting of a Grade II listed building which national and local policy seeks to protect. It is therefore reasonable to come to a different conclusion in this case.

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 there is insufficient reason to deviate from the Governments 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 in terms of objection raised on grounds of fear, as they fear the potential radiation increases from 5g masts on local wildlife and themselves and their families. It is not considered that these comments outweigh the Government's guidance in the NPPF and that the Planning Authority could sustain a refusal on grounds of public fear and an adverse effect on amenity as a consequence of this.

7.0 REPRESENTATIONS

- 7.1 Objections have been received from 13 local residents. The main concerns are summarised below:
- location/appearance – would be an eyesore within a purely residential area on a junction that is a controlled crossing used daily by children on their way to school. Very close to houses;
 - Visual distraction in a very green area;
 - 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;
 - Possible adverse impact on property values;
 - Negative impact on the environment and to wildlife.
- 7.2 Cllr Callan has also objected as he believes that it will be unsightly and will impact on the amenity of local residents. He has spoken to residents

and they are unhappy with the proposal, having concerns about the visual impact and possible health implications.

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 the 2021 National Planning Policy Framework (NPPF) the Local Planning Authority has considered the merits of the submitted application and judged that the application is not acceptable in terms of the impact on the setting of the nearby listed building and which is contrary to the provisions of the Local Plan and the NPPF. On this basis the requirement to engage in a positive and proactive manner is considered to be best served by the Local Planning Authority issuing a decision on the application at the earliest opportunity and thereby allowing the applicant to exercise their right to appeal.

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 setting of the nearby listed building and as such, the proposal does not accord with the requirements of policy CLP21 of the Chesterfield

Borough Local Plan 2018-2035 and the National Planning Policy Framework (2021).

11.0 RECOMMENDATION

- 11.1 It is therefore recommended that Chesterfield Borough Council refuse the siting and appearance of the development proposed in the manner described in the above-mentioned application and shown on the accompanying plan(s) and drawing(s) for the following reason:

The siting and appearance of the proposed installation due to being directly adjacent to and in close proximity to a Grade II listed building, no. 64 Station Road, would result in harm to the public appreciation of and to the setting of the Grade II listed building, resulting in harm to the significance of the heritage asset. The public benefits arising from the harm are not considered to outweigh the harm in this case. The proposal is considered to be contrary to the national guidance in Part 16 of the NPPF and Policy CLP21 of the Chesterfield Local Plan 2018-35.