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Item No: 7.2

Application: 210966

Applicant: Hutchison Uk Ltd

Agent: Grace O'Donnell, WHP Telecoms Ltd

Proposal: Application for prior notification of proposed development by telecommunications code systems operators. Cabinet & 18 metre mast

Location: Junction of Tollgate Road &, Church Lane, Stanway, Colchester

Ward: Stanway

Officer: James Ryan

Recommendation: Approve prior notification

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it has been called in by two Ward Members for the following reasons:
- 1.2 Cllr Dundas: There has been significant local comment and objections/support and residents would like the opportunity to state their case to a Committee. The mast although welcomed by many for improved 5G coverage is of a large design and in a prominent area.
- 1.3 Cllr Scott-Boutell: I understand the principle of permitted development, however I wish to call this application in on the grounds of siting and design.

2.0 Synopsis

- 2.1 The key issues for consideration are the siting and appearance of the proposed mast and cabinet. In this instance the proposal is held to be acceptable in its context.
- 2.2 The application is subsequently recommended for approval of prior notification.

3.0 Site Description and Context

- 3.1 The site is located within the footway on Tollgate Road close to the junction with Church Lane.
- 3.2 The context is generally residential. Other street furniture is present in the immediate vicinity, for example a broadband cabinet and street lighting.

4.0 Description of the Proposal

- 4.1 An 18m tall Phase 8 Monopole is proposed with a wrap-around Cabinet at its base and associated ancillary works.

5.0 Land Use Allocation

- 5.1 The land is adopted highway.

6.0 Relevant Planning History

- 6.1 There is no planning history relevant to this scheme.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
UR2 - Built Design and Character
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling
TA4 - Roads and Traffic
ENV1 - Environment

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP17 Accessibility and Access

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA STA1 Appropriate Uses within the Stanway Growth Area
SA STA2 Phasing of Greenfield sites in Stanway Growth Area
SA STA3 Employment and Retail Uses in Stanway Growth Area
SA STA4 Transportation in Stanway Growth Area
SA STA5 Open Space in Stanway Growth Area

- 7.5 The area does not have a neighbourhood plan but Stanway has a Parish Plan and Design Statement.

- 7.6 Submission Colchester Borough Local Plan 2017-2033:
The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
2. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
3. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but it is not

considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

The Section 1 Local Plan was adopted on 1 February 2021 and is afforded full weight. The Section 2 Emerging Local Plan has now been examined, with hearing sessions having taken place between 20 and 30 April 2021. Section 2 policies must be assessed on a case by case basis in accordance with NPPF paragraph 48 to determine the weight which can be attributed to each policy.

Core Strategy Policy SD1 is fully superseded by policies SP5 and SP6 of the Section 1 Local Plan. Policies SD1, H1 and CE1 are partially superseded by policies SP3, SP4 and SP5 in relation to the overall housing and employment requirement figures. The remaining elements of policies SD1, H1 and CE1 are relevant for decision making purposes.

7.7 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide
Stanway Parish Plan and Design Statement

8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 Contaminated Land:

No comment.

8.3 ECC Highways:

The Highway Authority does not object to the proposals as submitted, however, the precise locations of the proposed development should be determined by Essex Highways Streetworks Team.

8.4 Environmental Protection:

No comment.

9.0 Parish Council Response

9.1 The Parish Council have stated that: I refer to the above application and can confirm that Stanway Parish Council OBJECTS to this proposal due to the due to strong opposition from residents, the pole would be at the same level as the flats and town houses opposite and the houses on the embankment behind. The Committee feels it would better placed further down Tollgate Road on commercial land and away from the residential area.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below:

20 in objection:

The scheme is in a prominent position.
The proposal is an eyesore.
We will directly overlook this mast.
I don't want to see this mast.
It will impact my children.
The mast is not needed.
The mast should be put near to the retail park.
It will be a hazard in the footway.
The existing broadband boxes need maintenance.
A poorly thought through application.
Could it not be camouflaged?

11 in support and 4 general comments:

The mast is vital to ensure greater connectivity in Colchester.
The current connectivity is not good enough.
Three Mobile reception is terrible in Lakelands so this is welcomed.
The prospects of the area should not be hampered by dismissing this.
The mast is more attractive than some types you see around.
The mast is acceptable.

- 10.2 It is noted that the consultation period is still running at the time of writing. Any further representations will be reported to Members verbally at the committee meeting.

11.0 Parking Provision

- 11.1 Not applicable.

12.0 Accessibility

- 12.1 As the scheme has been sited on the widest part of the footway it is not held to materially obstruct the passage of wheelchair users or pedestrians.

13.0 Open Space Provisions

- 13.1 Not applicable.

14.0 Air Quality

- 14.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

16.1 The main issues in this case are:

- The Principle of Development
- Siting and Appearance

16.2 This is an application to assess whether the Council requires prior notification for the siting and appearance of the proposed 5G phone mast.

16.3 The proposal is permitted development granted by Part 16 of the General Permitted Development Order 2015 (as amended). This means the principle of development cannot be assessed by the Council. The need for the mast cannot be taken into consideration. The only matters that can be assessed are the siting and appearance, i.e. where the mast is located and what it looks like.

16.4 The NPPF recognises the vital importance of high-quality telecommunications and dedicates a whole chapter to this. Chapter 10 of the NPPF outlines the Governments support for high quality communications.

16.5 Paragraph 112 states:

“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. Policies should set out how high-quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).”

16.6 It continues in Paragraph 113:

“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. 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.”

16.7 The support for telecoms and the need not to constrain Operators is laid out in Paragraph 116:

“Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.”

- 16.8 In terms of appearance the mast is an 18m high pole with the 5G transmitters located at the top. The mast has a cabinet at the bottom. It is a rather utilitarian structure but is at least slim in profile. The planning statement sets out how this is the only option of this size and Council officers would not want to see anything larger. Nor would officers support an open headframe as masts of that type are even more visible and prominent. The applicants state that a height of 18m is the absolute minimum height needed for operational reasons.
- 16.9 In terms of siting, the cabinet and mast are proposed on the edge of the footway along Tollgate Road, close to the junction with Church Lane. It is a relatively prominent site, but avoids being directly adjacent to residential dwellings which are located over the other side of Tollgate Road and on Church Lane by separated by a vacant piece of land.
- 16.10 The applicants have looked at a number of alternative locations and have set out why they have discounted them in their planning statement. The justifications given are reasonable. The suggestion to move the mast north toward the Tollgate commercial area was considered by the applicants. The planning statement sets out a site on Martin Hunt Drive which is further north, but the site was discounted as this was even nearer to dwellings. They state that ‘The only viable option has been put forward’ and the Council do not have evidence to suggest that is not the case.
- 16.11 As the site sits in the footway on adopted highway land, it is important to consider the impact on pedestrian movement. The Highway Authority have stated that not object to the proposal as it does not impede pedestrians passing the equipment – there is at least 3.5m clearance from the kerb to the equipment which is wide enough for pedestrians to pass side by side or beside a pram, wheelchair or mobility scooter. It does not obstruct visibility on the approach to the junction or present safety or additional hazards to highway users. The HA have noted that as a Statutory Undertaker, the applicants are permitted to install their equipment within the highway subject to not adversely affecting the highway user. As the site does raise any of the above issues, the HA state they have no reasons to object to the proposal.
- 16.12 This is clearly a balanced call. Whilst it will have a minor negative impact on the streetscene, masts such as this will provide a service to residents that is becoming increasingly relied upon. In many respects 5G will become a facility that is expected in a well-connected Borough such as Colchester. Masts need to be located close to the people who will use them to ensure reliable 5G signal strength. This site will fill a gap in the operators network and that is a significant public benefit of this scheme.

17.0 Conclusion and Planning Balance

- 17.1 To summarise, whilst it is accepted that the 18m high mast and cabinet is located in a prominent position and is of a utilitarian design, the benefits it will bring outweigh the harm it causes in visual amenity terms. The planning balanced tips in favour of an approval of prior notification.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is to approve prior notification:

Prior notification is **required** and is hereby **approved**.

19.0 Informatives

- 19.1 The following informatives are also recommended:

1. ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

2.ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.