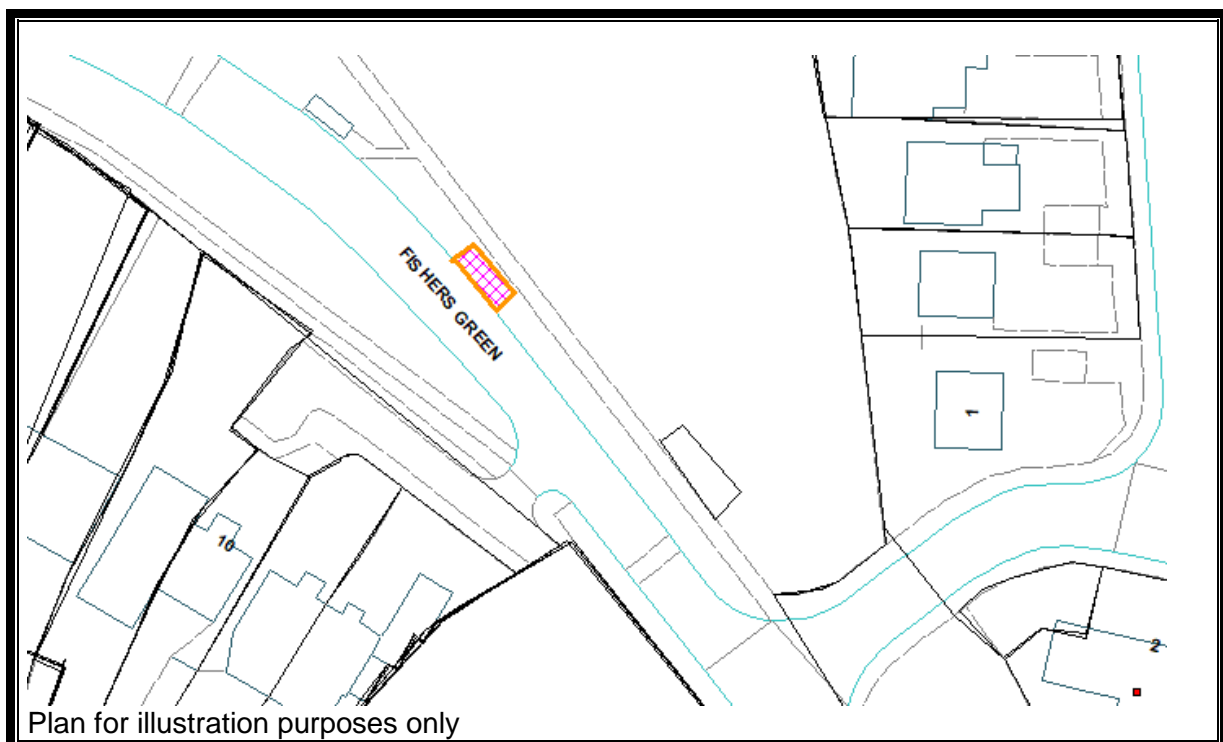


<b>Meeting:</b>	<b>Planning and Development Committee</b>	<b>Agenda Item:</b>
<b>Date:</b>	<b>4 April 2023</b>	
<b>Author:</b>	<b>Linda Sparrow</b>	01438 242837
<b>Lead Officer:</b>	<b>Zayd Al-Jawad</b>	01438 242257
<b>Contact Officer:</b>	<b>Linda Sparrow</b>	01438 242837

Application No :	23/00169/PATELE
Location :	Land Adjacent To Fisher Green And Corton Close Stevenage
Proposal :	Proposed telecommunications installation for the erection of an 18.0m Phase 8 Monopole and associated ancillary works.
Drawing Nos.:	SVG16477_M002-B-002; SVG16477_M002-B-100; SVG16477_M002-B-150; SVG16477_M002-B-210; SVG16477_M002-B-260; SVG16477_M002-B-303;
Applicant :	Signal Infrastructure UK Limited
Date Valid:	28 February 2023
Recommendation :	PRIOR APPROVAL REQUIRED AND GIVEN



## 1. SITE DESCRIPTION

- 1.1 The application site is located on a highway verge on the northern side of Fishers Green, near its junction with Corton Close/Sheringham Avenue. To the south, west and east of the site are residential properties, while to the north is a large area of public open space which is designated as "Common Land".

## **2. RELEVANT PLANNING HISTORY**

- 2.1 21/00638/PATELE, Junction of Corton Close and Fishers Green Road. Prior approval for 1no. 18 metre Phase 8 Monopole with a wraparound cabinet and associated ancillary works. Refused for the following reasons:
1. The proposed development, by virtue of its siting and height would be an incongruous feature in the street scene and would have an unacceptable impact on views through, and across the common which forms part of a designated green link as well as the wider street scene, to the detriment of the visual amenities of the area. The benefits of the development do not outweigh the harm. The application is therefore contrary to Policies GD1, SP8 and NH4 of the Stevenage Local Plan (2019), the NPPF (2019) and Planning Practice Guidance (2014).
  2. The applicant has failed to provide any evidence that the development would not harm any potential archaeological remains on the site, contrary to Policy NH9 of the Stevenage Local Plan (2019), the NPPF (2019) and Planning Practice Guidance (2014).
- 2.2 This application was subsequently approved at appeal under reference number APP/K1935/W/21/3281055. The Inspector concluded:-  
I have found that the proposed development would cause no significant adverse effects on the area's character or appearance, nor on its archaeology. In these respects, the appeal proposal would comply with the relevant policies of the development plan. Having taken account of all the other matters raised, none changes or outweighs these conclusions. The appeal is therefore allowed.

## **3. THE CURRENT APPLICATION**

- 3.1 Prior approval is sought under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) for the installation of a 18m high Phase 8 Monopole with associated equipment cabinets.
- 3.2 The proposed pole would be 18m high while the 3no. associated cabinets would measure 1.9m wide, 650mm deep and 1.7m high; 550mm wide, 500mm deep and 1.5m high and 650mm wide, 600mm deep and 1.2m high. The mast would be approximately 1.3m from the edge of the existing footpath. It would be approximately 40m north-west of the junction with Corton Close/Sheringham Avenue and approximately 18m south-east of the bus shelter on Fishers Green Road.
- 3.3 The application comes before Committee for consideration as it has been called in by Councillor Hollywell.

## **4. PUBLIC REPRESENTATIONS**

- 4.1 Following notification of the application via letter, and a site notice, a number of public representations have been received from the following properties:
- Whitesmead Road – 36;
  - Aldeburgh Close – 8;
  - Southsea Road – 13;
  - Stebbing Farm – 1;
  - Brighton Way – 26; 28;
  - Minehead Way – 102;
  - Corton Close – 4;
  - Fishers Green Road – 8;
  - Symons Green Road – 4;

Bawdsey Close – 4;  
Sheringham avenue – 13;

4.2 A summary of the objections raised are as follows:-

- Masts generate heat and is too close to wildlife;
- Will degrade the ambience and environment of Fishers Green;
- Potential health impacts;
- Blight on the landscape;
- They are clearly necessary, but can it be sited elsewhere?
- Leave the Common land alone;
- They are an eyesore;
- Too close to trees;
- House prices will be affected;
- Should be sited on land that is not Common Land closer to the A1(M);
- Unknown health impacts from 5G;
- No parking for maintenance vehicles;
- Residents have broadband/wi-fi and so do not need mobile masts;
- Sited on Common Land which is protected, and structures are not allowed;
- Will impact the visual amenities of the area;
- Will impact views of the open sky;
- Will impact the air ambulance;
- A number of Councils in Birmingham, Warrington, Coventry and Milton Keynes have refused permission for these masts on visual impacts;

4.3 The aforementioned summary is not a verbatim copy of the comments received. Full copies of all representations received can be viewed on the Councils website.

## **5. CONSULTATIONS**

### **5.1 Hertfordshire County Council as Highways Authority**

5.1.1 Objection. There is insufficient information supplied with this application to enable the Highway Authority to reach a recommendation. In the absence of the necessary information, the Highway Authority recommends refusal due to doubt over possible implications for highway safety and convenience. We require sight of a Maintenance & Service Plan and a Boundary Plan. The applicant has not provided information on service and maintenance of the proposals. Fishers Green and surrounding areas has limited parking. On Fishers Green there is no parking between 7:30 am and 6:30 pm, Monday to Friday. Furthermore, a boundary plan is required to determine land owned by the Highway Authority and Stevenage Borough Council.

5.1.2 Officers advised HCC Highways via email that a maintenance and service plan is not a mandatory requirement for these types of applications and as such, whilst it can be requested of the applicant to provide it, the application cannot be refused on this basis alone if it is not provided. The information was requested from the applicant but they advised that it is not a requirement to provide it, as it will be provided to HCC Highways at permit stage.

### **5.2 Council's Environmental Health Section**

5.2.1 No objection.

*It should be noted that they requested conditions to be added to any decision notice issued relating to construction hours, contaminated land and dust emissions. However, this type of application does not allow for the imposition of these conditions.*

## **6. RELEVANT PLANNING POLICIES**

### **6.1 Background to the Development Plan**

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that the decision on the planning application should be in accordance with the development plan unless material considerations indicate otherwise. For Stevenage the statutory development plan comprises:

- The Stevenage Borough Council Local Plan 2011-2031
- Hertfordshire Waste Development Framework 2012 and Hertfordshire Waste Site Allocations Development Plan Document (adopted 2012 and 2014); and
- Hertfordshire Minerals Local Plan 2002 – 2016 (adopted 2007).

### **6.2 Central Government Advice**

6.2.1 Section 10 of the National Planning Policy Framework (NPPF; 2021) 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).

6.2.2 The relevant paragraphs of the NPPF are as follows:

*Paragraph 114* - supports the provision of 5G infrastructure in order to support economic growth and social well-being through the increased connectivity that 5G will provide. Central Government is also supportive of the provision of 5G network infrastructure.

*Paragraph 115* - Where new sites are required (such as for new 5G networks), equipment should be sympathetically designed and camouflaged where appropriate.

*Paragraph 118* - 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.

6.2.3 The introduction of 5G is a controversial topic throughout the country, with many campaigners claiming the technology is unproven and potentially hazardous to health. The government of the United Kingdom and Public Health England have provided reports and guidance to state that 5G is safe and that there are no public health grounds for 5G installation to be refused.

6.2.4 The installation of a mobile phone mast is classed as development and would normally require a full application for planning permission. However, designated mobile network operators have certain permitted development rights and this allows them to build prescribed infrastructure without having to apply for planning permission from the Local Planning Authority (LPA). "Prior approval" from the LPA regarding the siting and appearance of the development is required in certain circumstances, including for all new ground-based masts.

6.2.5 A mobile network operator may submit an application for prior approval under the General Permitted Development Order (Part 16 of Schedule 2 of the GPDO 2015 (as amended)). The Order grants approval of the principle of the development as permitted development but requires operators to obtain the prior approval from the LPA for the siting and

appearance of the items to be installed, in addition to providing the 'necessary evidence' set out in NPPF chapter 10, paragraph 117, including a statement that self-certifies that, when operational, International Commission guidelines will be met.

### **Latest Government Advice 22nd July 2020**

- 6.2.6 The government has published the outcome of a consultation exercise in 2020 on proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage. The following paragraphs are relevant to this application.
- 6.2.7 The scope of the consultation was on the principle of proposed planning reforms to support the deployment of 5G and extend mobile coverage. However, concerns were raised that did not relate to the specific proposed planning changes that views were sought on. These concerns, expressed by the majority of personal respondents, were in relation to in-principle opposition to the deployment of 5G infrastructure. In particular, on grounds relating to public health concerns, and the effects of electromagnetic fields (EMF) radiation on the environment, including on wildlife populations.
- 6.2.8 Public Health England's (PHE) Centre for Radiation, Chemical and Environmental Hazards (CRCE) takes the lead on public health matters associated with radiofrequency electromagnetic fields, or radio waves, used in telecommunications. PHE is familiar with the evidence submitted to the consultation about possible risks to public health and considers that its advice, as set out below, remains unchanged. PHE updated its guidance, published in October 2019, in respect of 5G in '5G technologies: radio waves and health'. PHE summarised its guidance as:
- "It is possible that there may be a small increase in overall exposure to radio waves when 5G is added to an existing network or in a new area. However, the overall exposure is expected to remain low relative to guidelines and, as such, there should be no consequences for public health."*
- 6.2.9 Some 5G technology will use similar frequencies to existing communications systems. Other 5G technology will work at higher frequencies where the main change would be less penetration of radio waves through materials. Central to PHE advice is that exposure to radio waves should comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In compliance with PHE advice, mobile network operators have committed to follow the ICNIRP guidelines.
- 6.2.10 ICNIRP is an independent organisation which is formally recognised by the World Health Organisation. It issues guidelines on human exposure to EMF, based upon the consensus view of a large amount of research carried out over many years. This includes the frequencies used by 5G and all other mobile / wireless technologies. Over the last two decades there have been over 100 expert reports on EMF and health published internationally with well over 3,000 studies informing these reviews and the existing scientific exposure guidelines.
- 6.2.11 Ofcom will carry out audits of mobile base stations on an ongoing basis to ensure that ICNIRP guidelines are not exceeded and publish the results of these audits on its website. Mobile operators are responsible for ensuring that all sites remain compliant. PHE have also published guidance in respect of 'Mobile phone base stations: radio waves and health'. Ofcom is also proposing new licence conditions for spectrum licensees using equipment that can transmit at power levels above 10 Watts. Under these proposals, licensees would be required to operate within the ICNIRP guidelines as a condition of their Ofcom licence – including keeping data and records of any testing to demonstrate their compliance.
- 6.2.12 PHE is committed to monitoring the evidence applicable to this and other radio technologies, and to revising its advice, should that be necessary.

6.2.13 EMF radiation has the potential to impact the movement of insects and some species of animals. However, there is currently no evidence that human-made EMF radiation at realistic field levels has population level impacts on either animals or plants.

**Justification of Need**

6.2.14 Central Government expects LPAs to respond positively to proposals for telecommunications development and not question the need for equipment in principle or obstruct the competitiveness of code operators. If a code operator provides justification for needing a telecommunications installation in any given vicinity, the LPA has no choice but to agree to some form and kind of installation.

6.2.15 The justification provided to support the development is that the location has been identified as being necessary for CK Hutchison Networks (UK) Ltd business development and meets its specific technical and operational requirements. The application site is required to provide new 5G network coverage for CK Hutchison Networks (UK) Ltd. The cell areas for 5G are very limited with a typical radius of only 50m.

6.2.16 Other locations in the vicinity of the site have been considered and dismissed and it is accepted that mobile phone base stations operate on a low power and accordingly, the base stations need to be located in the areas they are required to serve. With increasing numbers of people using mobiles in their homes for business as well as for social purposes, the base stations need to be located in, or close to, residential areas to ensure coverage.

6.2.17 The information submitted with the application states that 5 other sites in the area have been considered, but dismissed as not suitable due to insufficient space, overhead cables, or proximity to dwellings:

Option 1 (Green Marker) – Fishers Green – Discounted due to underground services.  
Option 2 (Green Marker) – Fishers Green – Discounted due to underground services.  
Option 3 (Green Marker) – Fishers Green – This is the option selected in this application.

D1 - Sheringham Ave/Bawdsey Close – Discounted due to insufficient space and close proximity to housing  
D2 - Fishers Green/Corton Close – Discounted due to obstructing overhead cables.  
D3 - Fishers Green Road – Discounted due to insufficient space.  
D4 - Fishers Green – Discounted due to proximity to residential properties.  
D5 – Kessingland Avenue – Discounted due to proximity to residential properties and insufficient space.



- 6.2.18 The cell areas for 5G are very limited with a typical radius of only 50m. In the early days of mobile communications, high level topographies and large-scale masts were often identified in order that transmission from a new base station could cover an expansive geographical area. However, whilst this approach was viable for early network generations, the number of mobile handset users has dramatically increased with time, as have the advancements in mobile technology itself. As a result, the cellular network construction and operational criteria have changed too. Because modern networks use higher frequencies with faster data rates whilst serving significantly increased numbers of users, typical network cell areas are now much smaller in geographical area and tend to be directly proportionate to the number of users within it. Therefore, cell areas are smaller in size and greater in number with base stations operating at lower power output than previously.
- 6.2.19 Mobile phone base stations operate on a low power and as such the base stations need to be located in the areas they are required to serve. With increasing numbers of people using mobiles in their homes for business as well as social purposes, the base stations need to be located in, or close to, residential areas to ensure coverage.
- 6.2.20 The newer style 5G masts include a Remote Radio Unit which now needs to be placed at the top of the mast and not at ground level as on previous masts. As such, the masts, and other street works, are not structurally capable of accommodating the equipment needed for more than one operator which is why 5G masts are not shared. Whilst the Planning Advisory Service (PAS) may continue to recommend mast sharing, this is no longer supported for 5G installations. Additionally, with 5G masts operating at lower frequencies, they serve smaller areas and therefore additional masts are required to ensure full coverage of service for the mobile operator. Whilst there may be masts in the wider area, they cannot be shared for reasons stated above and if they provide service for a competitor company then they are not providing service for the applicant. Paragraph 118 of the NPPF (2021) states that Local Planning Authorities should not prevent competition between operators or question the need for an operator in that location. As such, to refuse prior approval because there are other masts in the wider area would be contrary to policy guidelines.
- 6.2.21 The Government is driving forward the delivery of 5G networks. In a press release in May 2022, they state that 5G is the next generation of mobile internet and can offer download speeds up to 100 times faster than 4G. It is expected to broaden the role that mobile technology plays in wider society which could transform the way public services are delivered by allowing greater real-time monitoring and responsiveness in order to reduce waste, pollution or congestion.
- 6.2.22 At the time of writing, our dependence on network services and connectivity is ever more apparent. Restrictions on travel resulting from the Coronavirus pandemic, plus three national lockdowns, have resulted in a large shift from office based to home working, from physical, professional and social gatherings to virtual ones, and to unprecedented reliance on online shopping and entertainment services. Network usage within suburbs has increased dramatically as less people are travelling to town and city centres than during pre-pandemic times. Maintaining and enhancing the mobile networks is of vital national importance, and it was significant that telecommunications were designated as “critical work” during that time. It is anticipated that the current shift towards homeworking and online services will persist, to a lesser degree, in the future. It is vital that the infrastructure is in place throughout the UK to meet this demand, and the needs of the public.
- 6.2.23 The benefit of having a strong and resilient network has been highlighted in the last 30 months following the sudden shift in the network requirements, as the demand on the network in residential areas increased with home-working and home-schooling. Research by Ofcom, “Online Nation 2020” (June 2022) found that UK adults spend, on average, almost 4 hours a day online, 3hrs of which are via a smartphone. Adults aged 18-24 spend

approximately 5hrs a day whilst those over 55 spend approximately 3hrs a day. 1 in 5 people only use a smartphone for online access compared to 1 in 10 in 2020.

- 6.2.24 Further, the report found that 88% of UK adults used a smartphone daily to access online messaging apps like WhatsApp whilst 60% of people aged 15-24 used Instagram daily. 1 in 5 adults used all three Meta-owned communications (WhatsApp, Facebook and Instagram). A staggering 90% of adults aged 16+ used their smartphone daily for voice/video calls whilst 80% of children aged 3-15 did the same.
- 6.2.25 People in lower income households are less likely to have a fixed line broadband service within the home and therefore rely more on their mobile devices and are disadvantaged further when infrastructure needs are not met.
- 6.2.26 Since the Covid-19 Pandemic, many education providers have adopted the use of apps such as 'Seesaw' 'Google Classroom' or 'Satchell One' which allow teachers, parents/guardians, and students, to interact daily and to record what is happening within the education setting and set and receive homework/coursework. Whilst these apps work on Wi-Fi and mobile data, those without a reliable Wi-Fi service are disadvantaged.
- 6.2.27 In April 2020 the Government released a press statement titled "Industry and Government Joint Statement on Telecommunications Support for the NHS". Following the Covid-19 Pandemic, the NHS needs broadband and mobile services more than ever with many healthcare services (e.g. outpatient appointments) being provided remotely rather than in person. Mobile operators pledged to provide improved mobile data services for NHS staff, clinical settings and care homes. They also have packages available for vulnerable customers so that they have sufficient data for telephone/video calls when they do not have a fixed-broadband service.
- 6.2.28 Notwithstanding the Covid-19 pandemic, and the increase in network reliance, a look at past data shows that our reliance on mobile networks was increasing year-on-year, prior to 2020. Ofcom's Communications Market Report 2018 provides a figure of 92 million active mobile subscribers in the UK at the end of 2017. It detailed that 78% of adults used a smartphone and that 76% of mobile users were using their devices for web and data access. Figures within the report also confirm that users were spending an increasing amount of time per day using their mobile phone. 68% of participants in the Touchpoints research reported that they "could not live without" their mobile phone (rising to 78% among 25-34s). Whilst not included within the research figures, anecdotal evidence suggests that this number is greater still amongst those aged under 18. Given that two years have now passed since this report, it is anticipated that these figures have increased further. All of which points towards the nation's increasing dependency on mobile services and connectivity.
- 6.2.29 A relatively recent YouGov survey (January 2021) adds further support to this, with 67% of those who were at the time working from home during the pandemic confirming that they had been using mobile data, as opposed the fixed-line broadband, agreeing that access to it would be an important factor when choosing where to live in the future. This rises to 76% for 18-to-34-year-olds. The survey also confirmed that 44% of one network Operator's data traffic in January 2021 went to streaming services, such as Disney+, and that 45% of 18-to-24-year old's confirming that they are more likely to use their mobile data for browsing social media.
- 6.2.30 All of the above occur in a domestic setting. There is a clear need and demand for connectivity and capacity, and it is anticipated that telecommunications infrastructure has become, and will continue to become, commonplace in residential and suburban settings, and on highways verges, such as the application site. Ofcom's 2018 Communications Market Research Report shows that smartphones are owned by four of every five UK consumers and smart TVs are in almost half of all households. Demand for data continues



to grow rapidly for UK consumers, with 1.9GB consumed by an average mobile subscription per month in 2017, (up from 1.3 GB the previous year). The report found that more than seven in ten now use their mobile to access the internet, sufficient coverage is obviously vital for this basic utility service to be provided.

- 6.2.31 Since 2016, and particularly during the enforced lockdowns of 2020 and 2021, public and business reliance on the established mobile networks has continued to increase. Improved mobile coverage and connectivity is now no longer viewed as a 'luxury', but rather an everyday necessity. This has been further exacerbated as, at the time of writing, the country appears to be adopting a more hybrid-working pattern, split between traditional office working, and working from home. As this 'working from home' naturally occurs within a residential setting, then it follows that the necessary infrastructure and apparatus must be in place to allow this to happen. As such, this type of infrastructure must be deployed within sub-urban, urban and residential areas. It is imperative that improving network connectivity and capacity is continuous – to meet the demands of the public who have changed both their working and social behaviour over the last 2 and a half years.

### **6.3 Stevenage Borough Local Plan 2011 – 2031 (adopted May 2019)**

- Policy SP8 – Good Design;
- Policy GD1 – High Quality Design;

## **7. APPRAISAL**

- 7.1. The determining issues relate to the acceptability of the application in terms of siting and appearance as defined under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The factors which can be considered in relation to appearance as part of the prior approval process include:

- design, form, shape and dimensions;
- colour and materials; and
- whether there are more suitable sites for the proposed works.

- 7.1.1 The factors which can be considered concerning siting include:

- the height of the site in relation to surrounding ground;
- the existing topographical features and natural vegetation;
- the effect on the skyline or horizon;
- the site when observed from any side;
- the site in relation to areas designated for scenic value;
- the site in relation to existing masts; and
- the site in relation to residential properties

- 7.1.2 It is therefore clear that the considerations to be taken into account in the determination of Prior Approval applications are prescribed and are very limited and do not include issues of public health.

### **7.2 Appearance**

- 7.2.1 The proposed development seeks to erect 1no. 18 metre Phase 8 Monopole with a wraparound cabinet in the southern corner of the public open space, to the rear of Sheringham Avenue properties and opposite Nos. 8-12 Fishers Green. The mast and cabinets would be installed in the highway verge which lies between the vehicular highway and the pedestrian footpath to the south-west of the public open space. It would be approximately 18m from the bus shelter and approximately 40m from the junction with Corton Close/Sheringham Avenue.

- 7.2.2 A recent change in legislation has increased the height of some masts to 20m, therefore while this proposed mast may be taller than others in the borough, heights of 20m will become more typical. A Government press release in March 2022 indicates that the Government intends to relax the permitted development rights further to allow masts up to 30m tall and 2m wider than is currently allowable.
- 7.2.3 The land upon which the development would be sited is registered as Common Land and is identified in the adopted Local Plan (2019) as a Green Link (NH4/1 The Old Greens) and an Area of Archaeological Significance (NH9/8 Fishers Green). The proposed development would be sited on the southern side of the public footpath which runs along the southern boundary of the common.
- 7.2.4 A previous telecommunications application (21/00638/PATELE) was refused for this site, albeit approximately 20m further south-east of the current application. This application was subsequently allowed on appeal (APP/K1935/W/21/3281055). In paragraphs 8 and 9 of his report, the Inspector stated that the area of Fishers Green was essentially urban in nature, despite the open common land, due to the presence of roads, kerbs, footways, verges, street lighting, a bus shelter, traffic signs, speed humps, lane markings, yellow lines and other urban paraphernalia. As such, he concluded that a mast in an urban setting, even when visible from substantial distances, would nevertheless not appear out of place in these urban surroundings.
- 7.2.5 The Inspector went on to say in paragraph 10 that in regard to concerns about the appearance of a mast in this Fishers Green location, a slim pole with a slightly wider headframe to accommodate the antenna would have a neat and streamlined appearance.
- 7.2.6 The development allowed under the aforementioned appeal is a material consideration in the assessment of this application that carries significant weight in favour of the application. It is therefore considered that, on balance, the appearance of the proposed mast in this urban setting is acceptable and would not appear out of keeping within the urban setting and would not give rise to undue harm to the character and appearance of the area. The justification of the need for the mast and the continued provision of coverage for mobile users are considered to outweigh any harm in this instance.
- 7.2.7 Turning to the proposed equipment cabinets, they are essential to the operation of the mast. Moreover, these cabinets being less than 2.5m<sup>3</sup> each could be implemented under permitted development. Therefore, the cabinets are deemed to be acceptable in this instance.

### **7.3 Siting**

#### Green Link

- 7.3.1 Policy NH4 of the Local Plan (2019) states that permission will only be granted for developments on Green Links if they do not create a substantive physical or visual break; do not adversely affect the recreational, structural, amenity or wildlife value or they do contribute to the maintenance, improvement or extension of the Green Link. This area is an important piece of public open space which is patronised by many different age groups in all weathers, as has been evidenced by the comments received from local residents and it therefore holds a very high amenity value.
- 7.3.2 The landscaping is predominantly limited to the outer boundaries of the site; however, the siting of the mast is not particularly close to any trees, is adjacent to a public footpath and is close to a bus stop, both of which are regularly used by local residents.
- 7.3.3 When viewed from a west to east direction, the development will be seen against the backdrop of the mature trees, the tallest of which at present are estimated to be around 15m in height and whilst others are much shorter, they have the potential to grow taller. It is

acknowledged that from all other vantage points, the proposed development will be seen as a stand-alone structure with no natural features to diminish its appearance. The properties in Sheringham Avenue and Corton Close will not have direct, unobstructed sight of the development due to the presence of the natural landscaping. The properties on Fishers Green directly face the development with no obstructions to their view. However, due to the orientation of these properties to the position of the mast, they will view the mast against the backdrop of the natural landscaping to the rear of Sheringham Avenue.

- 7.3.4 The previous application for this mast was refused on the basis that it would harm the visual amenities of the Common Land. This application was subsequently allowed on appeal (APP/K1935/W/21/3281055) and the Inspector stated in paragraph 9 that :

*I appreciate that the Common is a well-used and locally important open space and is designated as part of a Green Link. There is no doubt that the proposed mast would be clearly seen from most parts of it. The mast would also be seen from a substantial length of Fishers Green Road, north of its junction with Symonds Green Road. But nevertheless, given the urban character of this area as a whole, including both the road and the Common, the development now proposed would not appear out of place in these surroundings.*

- 7.3.5 This is a material consideration in the determination of this application and to refuse on the basis of detrimental harm to the use of the Common or the visual amenities of the area would be unreasonable given the Inspector has already determined that this is not the case.

#### Area of Archaeological Importance

- 7.3.6 The site is in an area of archaeological importance. Policy NH9 of the Local Plan (2019) requires developers to provide the results of an archaeological field evaluation. There are a number of areas in Stevenage which, although not nationally recognised or designated, are considered to be locally important because of the (potential for) archaeological remains that are contained within them. Fifteen areas of archaeological significance in Stevenage have been identified by Hertfordshire County Council, including the Common Land at Fishers Green on which the proposed development would be sited. Where development will affect any of these areas, prospective developers will be required to undertake an archaeological field evaluation of the site, in line with Government guidance and in consultation with the County Council's Historic Environment Unit. However, in many areas, small-scale development and other minor works will pose little or no threat to any remains. No evidence has been provided by the applicant in this regard.

- 7.3.7 The previous application for this mast was refused on the basis that it would be detrimental to the archaeological significance of the area. This application was subsequently allowed on appeal (APP/K1935/W/21/3281055) and the Inspector stated in paragraphs 14 to 16 that:

*In the present case, the proposed development would have a very small footprint, of no more than a few square metres. Apart from the mast itself, it seems unlikely that any of the other proposed equipment would require more than shallow foundations. As such, the impact on the AAS as a whole would be negligible.*

*It seems probable that the site would have been already heavily disturbed in the fairly recent past, and therefore the potential for any surviving archaeological remains in that part of the AAS seems likely to be low.*

*I therefore conclude that the development would involve little risk of any harm to the archaeological interest of the AAS. Consequently, I find no significant conflict with the aims of Policy NH9.*

- 7.3.8 This is a material consideration in the determination of this application and to refuse on the basis of detrimental impacts to the archaeological significance of the area would be unreasonable given the Inspector has already determined that this is not the case.

### Common Land

- 7.3.9 It has been established that this land is registered as 'common land' and is also designated as a Green Link and an Area of Archaeological Importance in the Local Plan (2019). The area of land is an extensive area of common land which is open to the public for social and recreational purposes and comprises grassland with extensive, mature tree boundaries on the northern and eastern sides. The southern and western sides have no boundary enclosures and as such, the land is highly visible in the public domain from many vantage points along Fishers Green. It is an attractive area of public open space which is highly patronised in all weathers.
- 7.3.10 Should Prior Approval for the development be granted, then under the Commons Act 1876 the applicant would have to seek further permissions from the Secretary of State to undertake works on the common. Under the Commons Act 2006, Section 38(1) works on common land are prohibited, however Section 38(6)(d) states that the prohibition of works does not extend to the installation of electronic telecommunications apparatus for the purpose of an electronic communications code network. So, whilst the applicant is still required to seek permission from the Secretary of State under the 1876 Act, the works proposed are not prohibited on common land under the 2006 Act. Accordingly, the application cannot be refused on this basis.

### Highway Implications

- 7.3.11 The mast and its associated cabinets are set on an existing highway verge. Herts County Council (HCC) as Highways Authority issued notice that they cannot extend the grant of permission as they require sight of a maintenance and service plan to ensure that the development can be properly maintained without hinderance to the highway network.
- 7.3.12 It should be noted that this information is not a mandatory requirement for Prior Approval applications and as such whilst the Local Planning Authority can request the applicant submits the information, the determination of the application cannot be withheld nor can it be refused if this information is not provided. HCC Highways have been made aware of this fact, but are maintaining their stance. The applicant has been asked to provide the information however they are aware that it is not a mandatory piece of information and are therefore not providing it at this time. They have advised that, as per standard protocol for these types of applications, the information will be provided to HCC Highways as part of their permit application to them.
- 7.3.13 Telecommunications Operators are a Statutory Undertaker and under the New Road and Street Works Act 1991 they are provided with rights under Section 50 to install their equipment within maintained highways without prior consent. As such, whilst the mast itself needs prior approval, the equipment cabinets fall under Permitted Development and can be installed in this location without consent from either the Council or the highways Authority. In this regard, it would be a matter for HCC Highways and the telecommunications operator to resolve any issues regarding ongoing maintenance and servicing of the development.
- 7.3.14 The Council's Environmental Health department have raised no objections to the siting of the mast and equipment cabinets in this location. Whilst they have requested the imposition of conditions relating to noise, dust and contaminated land, it should be noted that those types of conditions cannot be imposed on Prior Approval applications.
- 7.3.15 Neither the Legislation, NPPF nor the Code of Practice for Wireless Network Development in England set any parameters or guidance on siting of masts in residential areas; nor do they set any prescribed distances from residential dwellings. As such, despite the proximity of the development to residential dwellings in Sheringham Avenue and Fishers Green Road, there are no Legislative or policy means with which to refuse the application on this basis and defend at appeal.

- 7.3.16 The comments from residents regarding already having access to better broadband and therefore not requiring a mobile phone mast are noted. However, the siting of masts are not just for the benefit of immediate local residents, but rather by having masts covering all areas of the Town, they will allow a greater degree of accuracy for real-time monitoring of public transport as well as improving access to mobile services by members of the public in the area who would not have access to a broadband service.
- 7.3.17 The importance of continued, and improved, telecommunications network coverage cannot be underestimated, especially throughout the years 2020 and 2021, when the dependence on these networks has been higher than ever before. This dependence has continued into 2022 as our online shopping, gaming, and social habits have changed, post-pandemic, as well as many people adopting a working-from-home or hybrid work pattern.

#### **7.4 Other Matters**

- 7.4.1 The impact of the proposed mast upon property values is not an issue that may be taken into consideration in the determination of the application as it is not a planning issue.
- 7.4.2 With regards to concern over health impacts, the application has been accompanied by an ICNiRP certificate stating the proposed mast would comply with the required guidelines and would accordingly not have a harmful impact upon health. The NPPF (2021) makes it clear that where such a certificate has been submitted, it is not necessary to consider health issues further.
- 7.4.3 The Council must assess and determine these Prior Approval applications as received and they cannot be amended once submitted. As such, the Council cannot negotiate alternative locations.
- 7.4.4 Comments were received raising concern that the proposed mast would interfere with the flight path of the Essex and Herts Air Ambulance. The air ambulance's designated landing site is the school playing field of John Henry Newman secondary school, and the estimated landing location is calculated to be approximately 300m-350m to the east of the application site. Under the previous planning application (21/00638/PATELE) the Operations Manager and Chief Pilot were contacted via telephone where it was confirmed that the mast would not interfere with the safe operations of the air ambulance. However, they did request that should the application be approved then a condition should be imposed that a beacon light be installed on the mast which is lit 24/7 and is not an LED light. LED lights are not visible when using night vision so must not be used. Under the appeal for this previous application, the Inspector stated in paragraph 17:

*I note that air ambulances pass over the area, en-route to the Lister Hospital, but it seems unlikely that they would fly as low as 18m in this location, especially as there are tall trees nearby. There is therefore no apparent evidence that the development would be a hazard to air traffic, and no need for the mast to be lit. In any event, there is no provision in the relevant legislation for conditions to be imposed on a prior approval under Class A of Part 16, other than the standard conditions which are deemed to be imposed by virtue of paragraphs A2 and A3.*

#### Equality, Diversity and Human Rights

- 7.4.5 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.
- 7.4.6 When considering proposals placed before Members it is important that they are fully aware of and have themselves rigorously considered the equalities implications of the decision that they are taking.

- 7.4.7 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the Council's obligations under the Public Sector Equalities Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 7.4.8 The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.
- 7.4.9 The proposed development is sited within an adopted highways verge. In this regard, there would be no detrimental harm to the free flow of users of the adjacent public footpath, including those users who have protected characteristics under the Equalities Act.

## **8. CONCLUSIONS**

- 8.1 The proposed 18m Phase 8 Monopole and associated ancillary works would not have a harmful impact on the character and appearance of the area and are therefore considered acceptable in terms of siting and appearance. The justification of the need for the mast and the continued provision of coverage for mobile users outweigh any harm identified in this instance.

## **9. RECOMMENDATIONS**

- 9.1 That prior approval is Required and Given

## **10. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. The appeal decision relating to application reference number 21/00638/PATELE.
3. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
3. Central Government advice contained in the National Planning Policy Framework June 2021 and the Planning Policy Guidance March 2014.
4. Stevenage Borough Local Plan 2011-2031 (adopted May 2019).
5. Central Government advice contained in the Code of Practice for Wireless Network Development in England, 2016.