

Case Officer: Matthew Chadwick

Recommendation: Refused

Applicant: (EE (UK) Ltd and H3G (UK) Ltd)

Proposal: Street works style base station - the installation of a 17-metre phase 8 pole with wrap around cabinet built around the base, 3 no. new equipment cabinets and ancillary development thereto.

Expiry Date: 14 July 2020

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located on the south side of Skimmingdish Lane. Bicester Motion (the former RAF Bicester) is situated to the north of the site on the opposite side of the road. There is currently a 14.7m pole on the site, to the northwest of the location of the 17m pole proposed under this application. The site is located in an area of potentially contaminated land and protected species have been found in proximity of the site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The proposal consists of the upgrading of an existing mast site. An existing 14.7m tall 4G pole is to be retained, with a new 17m high 5G mast to be erected directly adjacent to the existing pole. A new 5G pole is proposed on the basis that Central Government considers digital communications to be a critical national infrastructure. The applicant states that the existing 4G pole is to be retained in order to maintain current services, to benefit users of that network and for EE to dedicate the 4G coverage for the use by emergency services.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

15/00125/PAO - Installation of a pogona cabinet and upgraded monopole – Prior approval not required

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal. However the applicant did consult the Council before submitting the application (20/01035/TEL) and the response stated that in visual terms, the application site was the most appropriate out of the 5 sites presented.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site. The final date for comments was **29 June 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. The comments raised by third parties are summarised as follows:

- The siting and scale of the development would have a detrimental impact on existing and future aviation operations at Bicester airfield.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. BICESTER TOWN COUNCIL: **Supports the application.**

OTHER CONSULTEES

6.3. CDC ENVIRONMENTAL HEALTH: **No objections.**

6.4. OCC HIGHWAYS: **No objections.**

7. RELEVANT PLANNING POLICY AND GUIDANCE

7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- ESD13 – Local Landscape Character and Protection
- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C39 – Telecommunication masts and structures

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Part 16, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Whether the works are permitted development
- Assessment of siting and appearance

Whether the works are permitted development

- 8.2. Part 16 of the GPDO permits development by or on behalf of an electronic communications code operator subject to a number of provisos, under Class A (a),(b), or (c). Accordingly, the proposed telecommunications development must be assessed as to whether it falls under any of these classes. The proposals constitute Class A(a) and A(c) development however the proposed monopole does not exceed the relevant size limits for a ground-based mast specified in paragraph A.1(c) (ii) of Part 16 – the overall height of the new mast would not exceed 20m.
- 8.3. In this instance the proposed development is considered to comply with all the relevant criteria for Class A (a) of Part 16 of the GPDO (2016) and accordingly the proposals the subject of the notification would be permitted development.
- 8.4. In this case sub-paragraph (4) (b) (i) of Paragraph A.2 (conditions) of Part 16 applies in that the developer must apply to the LPA for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development (Paragraph A.3).

Assessment of siting and design

- 8.5. Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 states that new development should complement and enhance the character of its context through sensitive siting, layout and high-quality design. Furthermore, new development should be designed to improve the quality and appearance of an area. Policy ESD13 states new development will be expected to respect and enhance local landscape character and secure appropriate mitigation where damage to local landscape character cannot be avoided.
- 8.6. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with the existing dwelling.
- 8.7. Saved Policy C39 states *“the council will normally grant planning permission for masts and other telecommunications structures where it has been demonstrated that,*
- i. It is not possible to share existing facilities;
 - ii. In the case of radio mast it is not possible to erect the antenna on an existing building or other structure; and
 - iii. In the area of outstanding natural beauty and the area of high landscape value there is no suitable alternative site available in a less sensitive location.
- 8.8. The proposal consists of the erection of a new mast with ancillary equipment cabinets, to be shared by two operators (EE and Three). The land is highway verge adjacent to a classified road. The site is not of any particular landscape sensitivity, but the mast would be visually prominent as viewed from users of Skimmingdish Lane.
- 8.9. The design and dimensions of the pole are restricted in order to meet the requirements to provide 5G coverage. The height of the pole is 20m with the

antenna being positioned so it does not increase the height of the pole. The mast would be relatively slim line and coloured grey and although taller would not look too dissimilar to the lampposts and existing mast which are sited along this section of highway. The cabinet would be painted green and would blend in with the existing vegetation.

- 8.10. The equipment would be set against the backdrop of existing natural vegetation that runs parallel to Skimmingdish Lane. The fact that there is an existing mast sets a precedent in that such development in this location has previously been considered acceptable in terms of siting and appearance. The proposed mast would be seen in the context of the existing mast at the site and other street furniture including street lights and road signage.
- 8.11. The addition of a second, taller mast in this location would result in proliferation and is not considered ideal in visual terms and would result in visual harm.
- 8.12. The proposals look to support the rollout of 5G coverage in the area (in line with the Government's aims for supporting high quality communications across the country; considered essential for economic growth and social well-being (NPPF Section 10)), whilst maintaining existing 4G coverage for existing users and also a dedicated network for emergency services, and it is considered that any visual harm resulting from the additional telecommunications equipment would not have any such additional adverse impacts on the visual amenities of the area that it would outweigh the potential benefits and be sufficient reason to justify refusal.
- 8.13. However, Bicester Motion is located immediately to the north of the site, on the opposite side of Skimmingdish Lane. In their letter of objection, an aviation impact assessment has been submitted which concludes that the scale and siting of the development would have a detrimental impact on existing and future aviation operations.
- 8.14. Paragraph 104 (f) of the NPPF states that planning policies should... recognise the importance of maintaining a national network of general aviation airfields.
- 8.15. The aviation impact assessment shows that the proposed mast would be within the obstacle-free take-off climb surface for Runway 24 from the Bicester Motion site, as set out in CAP 168, The Licensing of Aerodromes, a document produced by the Civil Aviation Authority.
- 8.16. The aviation impact assessment states that the result of the erection of this mast would be shortening the existing Runway 24 by at least 150m, and a reduction in potential useable flying area within the South Western corner of the flying area, inside the airfield perimeter track, of around 200m. The aviation impact assessment has been calculated on the basis of the mast being 16m in height (as the application stated when submitted before being corrected), so the impact on the airfield would be worse than that calculated in the aviation impact assessment.
- 8.17. As previously stated, there is an existing 14.7m mast in close proximity to the approved mast. However, it has not been demonstrated in the submission that the siting of the proposed mast would not impact the aviation operations of Bicester Motion. The proposal is thus considered unacceptable with regard to its siting.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The siting of the proposed mast would impact on the aviation operations of Bicester Motion and alternative sitings have not been demonstrated by the applicant to be inappropriate or unachievable.

10. RECOMMENDATION

That permission is refused, for the following reason:

1. The siting of the proposed mast in close proximity to Bicester Motion (that is, the Bicester Airfield) would impact on the existing and future aviation operations of the site. The mast would be located in the obstacle-free take-off climb surface for the airfield and would result in the runway being shortened. The proposed development would therefore be contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Case Officer: Matthew Chadwick

DATE: 14/07/20

Checked By: Nathanael Stock

DATE: 14.07.2020

Appendix 1

Whether the development is permitted under Class A – (a), (b) or (c)	Y/ N
Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network: - In, on, over or under land controlled by that operator, OR - In accordance with the electronic communications code (regulations 2003)	Y
CLASS A(a) The installation, alteration or replacement of any electronic communications apparatus (if yes, assess the proposal under Class A(a) below)	Y
CLASS A(b) The use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or (if yes, development is permitted development subject to A.2 conditions)	N
CLASS A(c) Development ancillary to radio equipment housing. (if yes, development is permitted development subject to A.2 conditions)	N

If any of the following statements apply then the Class A development is not permitted development and planning permission is required.

Class A.1		Y/N OR NA
1	Development not permitted: ground-based apparatus	
(a)	In the case of the installation of <u>apparatus (other than on a building or other structure)</u> , the apparatus (excluding any antenna) would exceed a height of 15metres above ground level.	Y
(b)	In the case of the alteration or replacement of <u>apparatus already installed (other than on a building or other structure)</u> , the apparatus (excluding any antenna) would, when altered/replaced exceed: - the height of the existing apparatus OR - a height of 15 metres above ground level whichever is greater.	NA
(c)	in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of— (i) 25 metres above ground level on unprotected land; (ii) 20 metres above ground level on article 2(3) land or land which is on a highway; or	Y
(d)	in the case of the alteration or replacement of a mast, the mast, excluding any antenna, would when altered or replaced— (i) exceed the greater of the height of the existing mast or a height of— (aa) 25 metres above ground level on unprotected land; or (bb) 20 metres above ground level on article 2(3) land or land which is on a highway;	NA

	or (ii) together with any antenna support structures on the mast, exceed the width of the existing mast and any antenna support structures on it by more than one third, at any given height.	
(2)	Development not permitted: building based apparatus	
(a)	In the case of the installation, alteration or replacement of apparatus on a building or other structure, the height of the apparatus (taken by itself) would exceed— (i) 15 metres, where it is installed, or is to be installed, on a building or other structure which is 30 metres or more in height; or (i) 10 metres in any other case;	NA
(b)	in the case of the installation, alteration or replacement of apparatus on a building or other structure, the highest part of the apparatus when installed, altered or replaced would exceed the height of the highest part of the building or structure by more than— (i) 10 metres, in the case of a building or structure which is 30 metres or more in height; (ii) 8 metres, in the case of a building or structure which is more than 15 metres but less than 30 metres in height; or (iii) 6 metres in any other case;	NA
(c)	in the case of the installation, alteration or replacement of a mast on a building which is less than 15 metres in height, the mast would be within 20 metres of the highway (unless the siting remains the same and the dimensions of the altered or replaced mast are no greater);	NA
(d)	in the case of the installation, alteration or replacement of an antenna on a building (other than a mast) which is less than 15 metres in height; on a mast located on such a building; or, where the antenna is to be located below a height of 15 metres above ground level, on a building (other than a mast) which is 15 metres or more in height— (i) the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building on which the antenna is to be located; (ii) in the case of dish antennas, the size of any dish would exceed 0.9 metres or the aggregate size of all the dishes on the building would exceed 4.5 metres, when measured in any dimension; (iii) in the case of antennas other than dish antennas, the development would result in the presence on the building of— (aa) more than 3 antenna systems; or (bb) any antenna system operated by more than 3 electronic communications code operators; or (iv) the building is a listed building or a scheduled monument;	NA
(e)	in the case of the installation, alteration or replacement of an antenna on a building (other than a mast) which is 15 metres or more in height, or on a mast located on such a building, where the antenna is located at a height of 15 metres or above, measured from ground level— (i) in the case of dish antennas, the size of any dish would exceed 1.3 metres or the aggregate size (ii) of all the dishes on the building would exceed 10 metres, when measured in any dimension; (iii) in the case of antennas other than dish antennas, the development would be on a building which is less than 30 metres in height and would result in the presence on the building of— (aa) more than 5 antenna systems; (bb) any antenna system operated by more than 3 electronic communications code operators; or (iii) the building is a listed	NA

	building or a scheduled monument; or	
(f)	in the case of the installation of an antenna on electronic communications apparatus on a building on article 2(3) land— (i) the size of any dish antenna to be installed would exceed 0.6 metres or the number of dish antenna which have been installed on the building since 21st August 2013 would exceed 3; (ii) the height of any antenna other than dish antenna to be installed would exceed 3 metres, or the number of such antennas which have been installed on the building since 21st August 2013 would exceed 3.	NA
(3)	Development not permitted: apparatus on masts	
	Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than an antenna) on a mast is not permitted by Class A(a) if the height of the mast (including the apparatus installed, altered or replaced) would exceed any relevant height limit specified in paragraph A.1(1)(c) or (d) or A.1(2)(a) or (b). For the purposes of applying the limit specified in paragraph A.1(2)(a), the words “taken by itself” in that paragraph are omitted.	Y
(4)	Development not permitted: antennas and supporting structures installed, replaced or altered on article 2(3) land or land which is a site of special scientific interest	
	Development consisting of the installation, alteration or replacement of an antenna, a mast or any other apparatus which includes or is intended for the support of an antenna, or the replacement of an antenna or such apparatus by an antenna or apparatus which differs from that which is being replaced, is not permitted by Class A(a)— (a) on any article 2(3) land unless— (i) the development (excluding the installation, alteration or replacement of a mast) is carried out in an emergency and is within any limitations specified in paragraph A.1 for development of the same type on unprotected land; (ii) the antenna or apparatus comprises or is part of a small cell system and is on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse; (iii) the antenna is a small antenna and the development is within the limitations specified in paragraph A.1(5) or (6); (iv) where the antenna or apparatus is not a small cell system or a small antenna, the development is within the limitations specified in paragraphs A.1(1)(c)(ii), A.1(1)(d)(i)(bb) or A.1(2)(f); (b) on any land which is, or is within, a site of special scientific interest unless— (i) the development (excluding the installation, alteration or replacement of a mast) is carried out in an emergency and is within any limitations specified in paragraph A.1 for development of the same type on unprotected land; or (ii) the development is within the limitations specified in paragraph A.1(5).	NA
(5)	Development not permitted: electronic communications apparatus installed, replaced or altered on a dwellinghouse	
	Development consisting of the installation, alteration or replacement of	NA – the

	<p>any electronic communications apparatus on a dwellinghouse or within the curtilage of a dwellinghouse is not permitted by Class A(a) if that apparatus—</p> <p>(a) is not a small antenna;</p> <p>(b) is to be located on a wall or roof slope facing a highway which is within 20 metres of the building on which the antenna is to be located;</p> <p>(c) would result in the presence on that dwellinghouse or within the curtilage of the dwellinghouse of more than 1 small antenna;</p> <p>(d) is to be located on a roof or chimney so that the highest part of the antenna would exceed in height the highest part of that roof or chimney respectively;</p> <p>(e) is on article 2(3) land and would be located— (i) on a chimney; (ii) on a building which exceeds 15 metres in height; (iii) on a wall or roof slope which fronts a highway; or (iv) in the Broads, on a wall or roof slope which fronts a waterway.</p>	<p>apparatus is not on or within the curtilage of a dwelling-house</p>
(6)	Development not permitted: small antennas installed, replaced or altered on a building which is not a dwellinghouse	
	<p>Development consisting of the installation, alteration or replacement of a small antenna on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse is not permitted by Class A(a) if—</p> <p>(a) that antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building on which the antenna is to be located;</p> <p>(b) the building is less than 15 metres in height, and the installation, alteration or replacement would result in the presence on that building of more than 1 small antenna;</p> <p>(c) the building is 15 metres or more in height, but less than 30 metres in height, and the installation, alteration or replacement would result in the presence on that building of more than 2 small antennas.</p>	<p>NA – the apparatus is not on a building</p>
(7)	Development not permitted: ground or base area	
	<p>Development consisting of the installation, alteration or replacement of any electronic communications apparatus other than—</p> <p>(a) a mast;</p> <p>(b) an antenna;</p> <p>(c) a public call box;</p> <p>(d) any apparatus which does not project above the level of the surface of the ground;</p> <p>or (e) radio equipment housing, is not permitted by Class A(a) if the ground or base area of the structure would exceed 1.5 square metres.</p>	<p>Y</p>
(8)	Development not permitted: driver information systems	
	<p>Development consisting of the installation, alteration or replacement of system apparatus within the meaning of section 8(6) of the Road Traffic (Driver Licensing and Information Systems) Act 1989 (definitions of driver information systems etc.)(a) is not permitted by Class A(a).</p>	<p>NA</p>
(9)	Development not permitted: radio equipment housing	
	<p>Development consisting of the installation, alteration or replacement of radio equipment housing is not permitted by Class A(a) if—</p> <p>(a) the development is not ancillary to the use of any other electronic communications apparatus;</p> <p>(b) the cumulative volume of such development would exceed 90 cubic metres or, if located on the roof of a building, the cumulative volume of such development would exceed 30 cubic metres; or</p>	<p>NA</p>

(c) on any article 2(3) land, or on any land which is, or is within, a site of special scientific interest, any single development would exceed 2.5 cubic metres, unless the development is carried out in an emergency	
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In this instance the proposed development complies with all the relevant criteria for Class A (a) of Part 16 of the GPDO (2016) and accordingly the proposals the subject of the notification are considered to be permitted development.

The table below explores whether prior approval is required.

Section A.2 (Conditions)		Y/N or NA
(1)	<p>A.2—(1) Class A(a) and A(c) development is permitted subject to the condition that—</p> <p>(a) the siting and appearance of any antenna or supporting apparatus, radio equipment housing or development ancillary to radio equipment housing constructed, installed, altered or replaced on a building (excluding a mast) are such that the effect of the development on the external appearance of that building is minimised, so far as practicable;</p> <p>(b) the siting and appearance of a mast which has been altered or replaced in a manner which does not require prior approval under paragraph A.2(3), and any electronic communications apparatus installed, altered or replaced on it, are such that the visual impact of the development on the surrounding area is minimised, so far as practicable.</p>	N
(2)	<p>Class A development is permitted subject to the condition that—</p> <p>(a) any electronic communications apparatus provided in accordance with that permission is removed from the land or building on which it is situated—</p> <p>(i) if such development was carried out in an emergency, at the expiry of the relevant period; or</p> <p>(ii) in any other case, as soon as reasonably practicable after it is no longer required for electronic communications purposes; and</p> <p>(b) such land or building is restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.</p>	Y
(3)	<p>Subject to sub-paragraph (5), Class A development—</p> <p>(a) on article 2(3) land, excluding development specified in sub-paragraph (4);</p> <p>(b) on land which is, or is within, a site of special scientific interest; or</p> <p>(c) on unprotected land where that development consists of—</p> <p>(i) the installation of a mast;</p> <p>(ii) the alteration or replacement of a mast which, when completed</p> <p>(aa) is taller than the mast which existed prior to such alteration or replacement; and</p> <p>(bb) exceeds a height of 20 metres above ground level;</p>	Y – see below

	<p>(iii) the construction, installation, alteration or replacement of—</p> <p>(aa) a public call box; or (bb) radio equipment housing, where the volume of any single development exceeds 2.5 cubic metres,</p> <p>is permitted subject, except in case of emergency (in which case only paragraph A.3(12) applies), to the conditions set out in paragraph A.3 (prior approval).</p>	
	<p><i>The development is on unprotected land, consists of the alteration of a mast that when completed exceeds a height of 20metres above ground level (its 25 metres).</i></p> <p>As such the development is permitted <u>subject to the conditions set out in A.3 (prior approval).</u></p>	
(4)	<p>Development is specified for the purposes of sub-paragraph (3)(a), if it consists of—</p> <p>(a) the installation, alteration or replacement of a small cell system on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse; or (b) development which is within the limitations specified in paragraph A.1(1)(d)(i)(bb), A.1(2)(f), A.1(5) or A.1(6).</p>	N/A – its not on a building
(5)	<p>The conditions set out in paragraph A.3 (prior approval) do not apply in relation to Class A development on any article 2(3) land which consists of the construction, installation, alteration or replacement of a telegraph pole, cabinet or line, in connection with the provision of fixed-line broadband, provided that the development is completed on or before 30th May 2018.</p>	N/A
(6)	<p>In this paragraph— “fixed-line broadband” means a service or connection (commonly referred to as being ‘always on’), via a fixed-line network, providing a bandwidth greater than narrowband (and for these purposes, “narrowband” means a service or connection providing data speeds up to 128 k bit/s); and “relevant period” means a period which expires when the need for any electronic communications apparatus, structure or use permitted by Class A ceases or, if sooner, 18 months from the commencement of the construction, installation, alteration or replacement of apparatus or structures permitted by Class A(a) or Class A(c), or the commencement of the use permitted by Class A(b), as the case may be.</p>	N/A

In this case the development is permitted development and subject to the prior approval process because the proposal triggers Section A.2(3)(c)ii(bb). As such section A.3 Prior Approval comes into play.

Section A.3 (Prior Approval)		Y/N or NA
(1)	Has the developer given notice?	Y – 15/05/20
(2)	Notice on or behalf of the developer?	Y
(3)	If the site is within 3km of the perimeter of an aerodrome has the developer notified the Civil Aviation Authority, the Secretary of State for	Y

	Defence or the aerodrome operator, as appropriate, before making the application?	
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