

Case Officer: Gemma Magnuson**Recommendation:** Refused**Applicant:** Signal Infrastructure UK Limited**Proposal:** Proposed telecommunications installation: Proposed 15.0m Phase 9 slimline Monopole and associated ancillary works**Expiry Date:** 14 May 2023**Extension of Time:**

1. APPLICATION SITE AND LOCALITY

1.1. The application site is located on an area of highway verge, consisting of an open grassed area bounded by a dry-stone wall to the south. The site is located immediately south of the junction of Oxford Road and Bletchington Road within the village of Kirtlington. The site is within the Kirtlington Conservation Area. Grade II* listed Church of St Mary is positioned approx. 200 metres to the north-east. A minor aquifer has been identified. The site lies within the aerodrome safeguarding zone for London Oxford Airport for development over 15 metres in height.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. The application seeks prior approval for the erection of a 15 metre tall phase 9 monopole and associated ancillary works upon the verge. Ancillary works would consist of the erection of cabinets and the laying of paving slabs on the ground to provide hard-surfaced access to the cabinets and monopole. The colour of all equipment would be fir green.

2.2. The current submission follows previous objections raised by Cherwell District Council (see 21/03350/TEL and 23/00730/TEL), a refused application for prior approval (see 21/03452/TEL56) and a dismissed Appeal (see APP/C3105/W/22/3290284), primarily based upon the visual impact of the development. The current scheme differs from the previous scheme as follows:

- Slimmer phase 9 monopole now proposed, as opposed to previous phase 8 monopole
- Wraparound cabinet at base of monopole has been removed
- Colour has been changed from previous grey to fir green

3. RELEVANT PLANNING HISTORY

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

Application: 21/03350/TEL Observations 29 October 2021

Proposed 5G Telecommunications Installation

Application: 21/03452/TEL56 Appeal Allowed 3 December 2021
(Against Refusal)

Proposed 15.0m Phase 8 Monopole C/W wraparound Cabinet at base and

associated ancillary works.

Application: 23/00730/TEL Observations

Proposed 15.0m Phase 9 monopole and associated ancillary works

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a site notice displayed near the site, expiring **22 April 2023**, by advertisement in the local newspaper expiring **29 April 2023** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **29 April 2023**. 43 responses were received, all objecting to the application.

5.2. The comments raised by third parties are summarised as follows:

- Conservation Area impact
- Visual impact, out of keeping with area
- Highway safety concerns
- Proximity to houses
- Already rejected by Council and at appeal/waste of Local Authority resources/tax payers money
- No consideration of alternative sites outside of Conservation Area
- Feedback from community not listened to
- Proximity to aerodrome
- Inaccuracies in supporting statement
- Developer only chosen this site for ease/financial reasons
- Mast will be visible from many locations in Kirtlington
- Not suitable for purpose, practical, sightly or workable
- Supporting statement says the site should be discounted
- Nearby old trees will come to the end of their lives
- Lack of consultation/publicity and deadline within school holidays
- Devalue properties/will no longer buy house in this area due to application
- Disrespectful to Council and villagers
- Insufficient evidence to demonstrate it will not negatively impact public health/health concerns
- Impact on wildlife
- Control over tree pruning in Conservation Area and listed buildings, need to match materials, unable to get planning permission - this makes a mockery
- Proximity to school
- Recurrent nightmare/persistent company causing distress

- Should ask for photograph of the phase 9 mast
- Concern regarding consumption of energy – Council aspirations to regarding climate change
- Rollout across the nation is a white elephant in the making
- Recent provision of high speed broadband in the village – 5G not required
- Only difference from previous is that it is a different company
- No current problems with service in the area
- Will need several other masts in the village
- Misleading plans
- Lost tree should be replaced
- Impact on park associated with Capability Brown (Kirtlington Park Grade II Registered Parks and Gardens)
- Noise
- Site visit should be undertaken

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.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. Kirtlington Parish Council – object, summarised comments as follows:

- Support roll out of 5G network but location is ill-conceived, siting and appearance and adverse effect on character and appearance of village
- Open character of broad junction – sense of openness important in defining character of village – a more visually intrusive location for development would have been difficult to find
- Visually prominent. view of mast against rural backdrop, panoramic view over valley between Kirtlington and Bletchington, framed by trees – contributes to setting of Conservation Area and landscape
- Obscure significant section of dry stone wall – contributes to setting of Conservation Area and landscape
- Mast would not be positioned at the highest point of the village – locations to the north may have been more appropriate
- SSSI acknowledges that cell search area is small but fails to identify alternative locations – no justification for proposed location
- Site is within an area of archaeological interest – could impact on physical remains of underground archaeology

- SSSI fails to identify what is deemed to be a sensitive user and what would be a suitable distance between such users and proposed development
- Close to residential properties
- Fail to acknowledge dismissed appeal
- Only difference is that mast and cabinets will be painted green and slimmer mast, does not address objection
- SSSI for current application incorrect, misleading, obvious cut and paste from applications elsewhere – casts great doubt on efforts by applicant to find most suitable, less harmful sites rather than just convenient
- No street lighting in this part of Kirtlington
- No pedestrian footpath here, just uninterrupted view across open countryside
- Single 7m tall BT pole which would be dwarfed by 15m monopole – significantly higher than limited items of nearby street furniture – visually intrusive and incongruous features in streetscene, diminish pleasant character and attractiveness of Conservation Area
- Wall behind is not brick, it is low-level dry stone wall, positive impact on heritage asset and is itself considered to be a non-designated heritage asset – would be obscured by cabinets
- Photographs in SSSI taken at angles away from the village
- Paragraphs 9, 10 and 11 of Appeal decision remain relevant - these are not addressed
- If approved, request screening of cabinets by stone walled enclosure, built parallel to existing retained stone wall, supportive of Policy PD5 of Mid-Cherwell Neighbourhood Plan and that a native tree of similar stature to previous tree that died be replanted to help mitigate visual intrusion of the mast

6.3. Mid-Cherwell Neighbourhood Plan Forum – no comments received.

STATUTORY CONSULTEES

6.4. London Oxford Airport – no comments received.

NON-STATUTORY CONSULTEES

6.5. OCC Highway Authority – no objection.

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)

- 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

MID-CHERWELL NEIGHBOURHOOD PLAN

- PD4 – Protection of Important Views and Vistas
- PD5 - Building and Site Design

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
- The Electronic Communications Code

8. APPRAISAL

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

- Whether the proposed works would represent permitted development under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
- Whether the siting and appearance of the proposed development would be acceptable.

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. The proposed monopole does not exceed the relevant size limits for a ground-based mast specified in paragraph A.1 (1)(c)(ii) of Part 16 – the overall height of the new mast would not exceed 25m.

8.3. I note the concern from members of the public regarding the distance to the Weston On The Green Aerodrome, although the distance is over 3km from the location of the proposed mast and the site is not in their safeguarding zone.

8.4. The associated radio equipment housing A.1. (9) would be ancillary to the electronic communications apparatus (a), and the cumulative volume would not exceed 90 cubic metres (b).

8.5. 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 and accordingly the proposals that form the subject of the notification would be permitted development.

8.6. In this case A.2 (3) (conditions) of Part 16 applies in that the developer must apply to the local planning authority 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 Appearance:

- 8.7. Government guidance contained within the NPPF requires planning decisions to support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections in the interests of economic growth and social well-being. Where new sites are required (such as for 5G networks), equipment should be sympathetically designed and camouflaged where appropriate. Local planning authorities are required to determine applications on planning grounds only, rather than seeking to prevent competition, questioning the need for an electronic communications system, or set different health safeguards from the International Commission guidelines for public exposure.
- 8.8. Policy ESD15 of the CLP 2015 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.
- 8.9. Saved Policy C28 of the CLP 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. Saved Policy C39 of the CLP 1996 states that *“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.*
- 8.10. Policy PD4 of the MCNP requires consideration of important views and vistas, the designated conservation area and other heritage assets, in order to avoid harm. Policy PD5 requires new development to be a high standard that responds to the character of the settlement, including landscape mitigation and retention of walls.
- 8.11. As with the previous application, the need to improve network coverage in the area is not disputed, and the benefits to be gained from improved mobile connectivity are recognised.
- 8.12. The monopole proposed as part of the current scheme would be of a slimmer design, omitting the wraparound cabinet at the base and finished in a fir green colour. Whilst this would represent an improvement on the previously refused scheme, I do not consider that the amendments go far enough to address the concerns raised by previous Case Officers and the Inspector. In the Appeal decision the Inspector commented as follows:
- 8.13. *The significance of the KCA is derived from the historic mainly linear form of the village, its vernacular buildings many dating from the 18th century and the association with Kirtlington Park and the appearance of being enclosed by farmland. The immediate surroundings of the appeal site provide a verdant agrarian character at the edges to the conservation area. The significance of the KCA is therefore expressed not only through the evolution of the village but also through the linkages and relationship with the adjacent countryside and park. The area of KCA of the site contributes strongly to this latter element of significance, with a gently rural character and an attractive openness interspersed with vernacular buildings.*

- 8.14. *The Framework states that where new sites serving the telecommunication industry are required, equipment should be sympathetically designed and camouflaged where appropriate. Whilst some effort has been made to design the proposed mast as a standard, uncluttered monopole, it would nevertheless exceed the height of the existing BT pole by a significant margin. The width of the proposed mast would stand out as an incongruous and dominant feature within the surrounding streetscape and would harmfully detract from the character and appearance of the area.*
- 8.15. The height of the proposed monopole remains as previous, and whilst the design is slimmer, particularly the antenna at the top of the monopole, it is considered that the monopole would continue to represent an incongruous and dominant feature within the streetscene, detracting from the character and appearance of the area and resulting in less than substantial harm to the historic significance of the designated Conservation Area.
- 8.16. Whilst there are public benefits in terms of the provision of up-to-date telecommunications that would arise as a result of the development, given the great weight that must be afforded to the conservation of heritage assets and their setting, I consider that the less than substantial harm that would be caused to the Kirtlington Conservation Area would not be outweighed by the benefits of the scheme.
- 8.17. For clarity, I do not consider that the development would impact upon the setting of nearby Grade II* listed building Church of St Mary.
- 8.18. The applicant has submitted a Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines with the application.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. It is for the above reasons that I consider the proposed development would result in less than substantial harm to the character and appearance of the existing streetscene and the Kirtlington Conservation Area. The identified public benefits are not considered to overcome the harm that has been identified, contrary to Policies PD4 and PD5 of the Mid-Cherwell Neighbourhood Plan, Policies C28 and C39 of the Cherwell Local Plan 1996, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the NPPF.

10. RECOMMENDATION

The proposed monopole and associated ancillary works, by virtue of their design and siting would result in less than substantial harm to the character and appearance of the Kirtlington Conservation Area. The public benefits arising from the scheme are not considered to outweigh the harm identified and the proposal is therefore contrary to Policies PD4 and PD5 of the Mid-Cherwell Neighbourhood Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policies C28 and C39 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Gemma Magnuson

DATE: 02 May 2023

Checked By: Paul Ihringer

DATE: 2/5/23
