

4.4 - SE/16/01777/TELNOT Date expires 17 August 2016

PROPOSAL: Proposed installation of a base station.

LOCATION: Proposed Base Station North Of The Woodman, 132
Swanley Lane, Swanley BR8 7XS

WARD(S): Swanley White Oak

ITEM FOR DECISION

This application has been referred to Development Control Committee at the Chief Officer's discretion due to the sensitive nature of the application. This is a very unusual circumstance, due to the nature of this application, the pressure on timing due to the legislation for this type of application and the previous planning history. It is for these exceptional reasons that the unusual step has been taken to ensure the application has the ability to be determined at Committee.

RECOMMENDATION: No Objection Lodged

Description of Proposal

- 1 The proposal involves the installation of a 12.5 metre monopole column with 6 integrated antennas. The monopole would be located on a large grass verge on the eastern side of Swanley Lane.

Description of Site

- 2 The application site comprises an existing wide grass verge which is located on the eastern side of Swanley Lane as it curves to meet the junction with Archer Way, approximately 65 metres to the north-east.
- 3 The site is predominately urban and residential in nature, with terraced properties to the west set slightly elevated from the highway and semi-detached properties to the east which back on to Dahlia Drive yet are set at the same level as the grass verge.

Constraints

- 4 Built confines of Swanley

Policies

Core Strategy:

- 5 Policy - SP1

Allocations and Development Management Plan (ADMP):

- 6 Policies - EN1, EN2

Other:

7 NPPF

Relevant Planning History

- 8 14/03835/TELNOT - Erection of a 12.5m replica telegraph pole, with ground based equipment cabinets and ancillary development - Objection Lodged and Appeal Dismissed
- 9 16/00694/TELNOT - Proposed base station - Objection Lodged.
- 10 Of important note is that for the above two applications, objection was raised in terms of the cabinets at ground level and their impact on the character of the streetscene and the safety for pedestrians. The two applications above did not raise objection to the monopole itself.
- 11 This current application solely requests prior approval for the monopole.

Consultations

Town Council

- 12 Swanley Town Council - No response received before going to print. (Deadline 14/7).

KCC Highways

- 13 No objection - As per the previous similar application at this location, highway visibility splays are not affected.

Representations

- 14 Neighbours consulted - 38
- 15 10 letters of objection have been received (deadline 24/7) on the following grounds:
- Health issues, effects, dangers and Human Rights to be safe- being close to residential properties and in particular for children and the elderly
 - Loss of amenity
 - Mast visible from many locations
 - Negatively impact on the visual appearance of the area
 - Danger to highway safety and pedestrians
 - The need has not been sufficiently demonstrated
 - Environmentally unfriendly
 - Reduction in house prices

Chief Planning Officer's Appraisal

- 16 This proposal is not a planning application, as under the Town and Country Planning (General Permitted Development) (England) Order 2015 the

proposal is considered to fall within the permitted development limits of Part 16, Class A.

- 17 Assessing the scheme under the prior approval process it is for the Local Planning Authority to consider the siting and appearance of the development only.
- 18 In addition to the above, Section 5 of the National Planning Policy Framework (NPPF) supports high quality communications infrastructure.
- 19 Paragraph 43 states that, 'where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate'.
- 20 Paragraph 45 of the NPPF sets out a list of evidence that should be included to justify the proposed development:
 - Consultations with organisation with an interest in the proposed development;
 - For a new mast or base station, that erecting of antennas on other buildings or other masts has been explored and that when operational, the International Commission guidelines will be met
- 21 Local Planning Authorities are encouraged to determine applications on planning grounds.

For the purposes of assessing this application, this report will consider the following:

- Whether the proposal complies with the requirements of the NPPF
- The need for the mast
- Whether the siting and appearance of the development
- Neighbouring amenity

Whether the proposal complies with the requirements of the NPPF

- 22 The Supplementary Information document indicates that the agent has consulted with interested parties, including the local Ward members.
- 23 A statement has been provided to confirm that the monopole is designed to be in full compliance with the requirements of radio frequency guidelines according to the International Commission on Ionizing Radiation (ICNIRP) for public exposure.
- 24 Due to this, the proposal is considered to comply with Paragraph 45 of the NPPF.

The need for the mast

- 25 The agent has submitted information which states that the site is a mast share between Vodafone Ltd and Telefonica UK and they plan to jointly manage the site.

- 26 The information states that the height of the monopole has been kept to a minimum to reduce its visual intrusion, with the antennas being housed within the pole.
- 27 The application also states that this shared management of the site is required in order to provide improved coverage for the area, under a joint venture which is supported by the NPPF.
- 28 The proposal would align with the NPPF in terms of promoting the sharing of masts to avoid the need for additional structures in the area and promoting an increased coverage to support a high quality communications infrastructure.
- 29 In addition, the two previous appeals on this site for the same monopole confirmed the need for the mast in this location. For instance, under the appeal decision (ref APP/G2245/W/15/3106013) paragraph 11, the Inspector states that “*The appellant has demonstrated a need for an installation in this vicinity, considered alternative sites...*”. It is noted that concern has recently been raised that the site is not the only suitable site within Swanley for telecommunications equipment. Clarification from the agent was sought which confirmed that all other sites have been deemed unacceptable, with this site as the only one which would effectively increase 3G and 4G coverage as required by the telecommunications company. It is also noted that Paragraph 46 of the NPPF advises that local authorities should not seek to question the need for the telecommunications system.

It is therefore considered that due to these recent decisions, together with the information submitted with this application, there is a need for this equipment and there is no evidence to dispute that.

Siting and appearance of mast

- 30 In assessing whether the proposal is acceptable, the Local Planning Authority should consider whether the siting and appearance of the monopole is acceptable and in line with the advice within the NPPF. This primarily states that the equipment should be sympathetically designed and camouflaged where appropriate.
- 31 Policy SP1 of the Core Strategy states that all new development should be designed to a high quality and should respond to the distinctive local character of the area in which it is situated.
- 32 Policy EN1 of the Sevenoaks ADMP states that the form of the proposed development should be compatible in terms of scale, height, density and site coverage with other buildings in the locality.
- 33 Concern and objection has been raised regarding the siting of the monopole, close to residential properties and its high visibility within the surrounding area.
- 34 The monopole would be sited on an existing highways verge, adjacent to an existing footpath and residential properties. The monopole would be visible when travelling along Swanley Lane from both directions and would extend

above the height of the existing vegetation which screens part of the verge when travelling south to north-east.

- 35 Despite its visibility along the road, the monopole has been designed to reduce its visual impact on the area, with a slim pole with antenna which would be integrated into the pole itself. However, due to its height it would be immediately visible within the area and would be a prominent feature within the urban landscape. The Inspector for the last appeal noted that *“the slim pole would be of a design which has been found to be acceptable in sensitive locations including National Parks and Conservation Areas.”*
- 36 Notwithstanding this, the previous application for the monopole (ref. SE/16/00694/TELNOT) concluded that while there are concerns in relation to the siting and appearance of the mast, this is *“...difficult to sustain an objection especially when the characteristics and appearance of the area remain unchanged and with the comments from the recent appeal.”* Within this appeal the Inspector concluded that *“Its unremarkable appearance, however, would not be so unusual or overbearing as to be materially harmful to the residential amenities of neighbouring occupiers. Accordingly, the siting and appearance of the replica pole would not be seriously harmful to the character and appearance of the area.”*
- 37 As the height and appearance of the monopole has not altered throughout the two previous applications, these conclusions should be given significant weight. Objections have been received by third parties regarding the appearance and siting of the monopole and these are an important consideration. In this case, as the need for the mast has been established and as an identical mast has previously been found to be acceptable at appeal, these considerations which must be given significant weight outweigh harm identified by the interested parties regarding siting and appearance.
- 38 The proposal would therefore comply with Policy SP1 of the Core Strategy and Policy EN1 of the ADMP.

Neighbouring amenity

- 39 Policy EN2 of the ADMP states that the proposed development must not have an adverse impact on the privacy and amenities of a locality by reason of form, scale, height, outlook, noise or light intrusion or activity levels, including vehicular or pedestrian movements.
- 40 The proposed monopole would be sited close to residential properties in the immediate area, such as 2 and 4 Dahlia Drive and 136 and 138 Swanley Lane. The monopole would also be visible from a number of properties in Dahlia Drive to the east. While this is the case, due to the small diameter of the pole, it would not result in an unacceptable loss of light to these properties or result in harmful overshadowing to the rear gardens of Dahlia Drive. While the monopole would be visible, planning policy cannot protect a view from a property, beyond considering any harm to immediate outlook in terms of significant built form. In this instance, while concern has been raised regarding the appearance of the pole, the pole would not cause a loss of outlook with sufficient weight to justify refusal. The previous appeals

have confirmed that there would be no material harm to the amenity of residents.

- 41 Significant concern and strong objection has been received regarding the health impacts of the monopole. This concern and objection is acknowledged, however the NPPF is clear that Local Planning Authorities should not determine health safeguards if the telecommunications equipment conforms to the relevant guidelines. In this case, the submitted information includes a declaration that the proposed monopole meets the guidelines for public exposure to radio frequencies. The statement also confirms that due to this, the monopole meets the ICNIRP guidance, thus due to this confirmation, no objection can be made in terms of the impact on health.
- 42 Concern has also been raised in regards to highways and pedestrian safety as a result of the monopole on those using Swanley Lane. The monopole would be sited just over 5 metres from the highway kerb. The site visit indicated that this would be a sufficient distance from the road so as to not provide a distraction, particularly as the monopole would have a relatively slim profile, not too dissimilar to a street light. In addition, KCC Highways have raised no objection in regards to the pole as it would not affect visibility splays. It is therefore felt that the monopole would not detrimentally harm highway safety or pedestrian safety in this instance.
- 43 There has also been objection raised as the monopole could de-value property in the area. This is not a material consideration for planning.
- 44 The proposed monopole would therefore be considered to comply with Policy EN2 of the ADMP.

Conclusion

- 45 The proposed monopole is considered to be permitted development under Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 46 After careful consideration of the proposal and of previous application and appeal decisions, the proposed monopole would be acceptable in terms of its siting, appearance, and its impact on neighbouring amenity. The proposal therefore complies with national and local policy.
- 47 It is recommended that no objection is lodged.

Background Papers

Site and Block plans

Contact Officer(s): Sarah Cottingham Extension: 7481

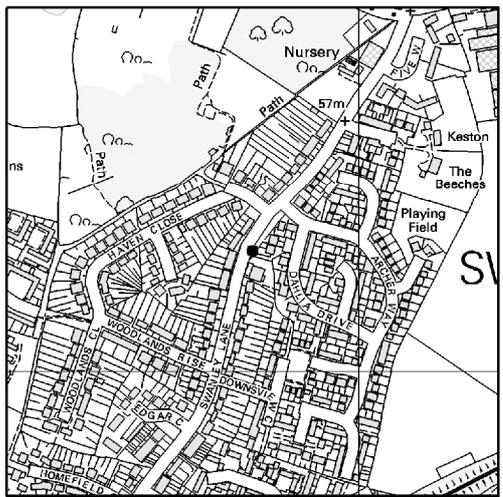
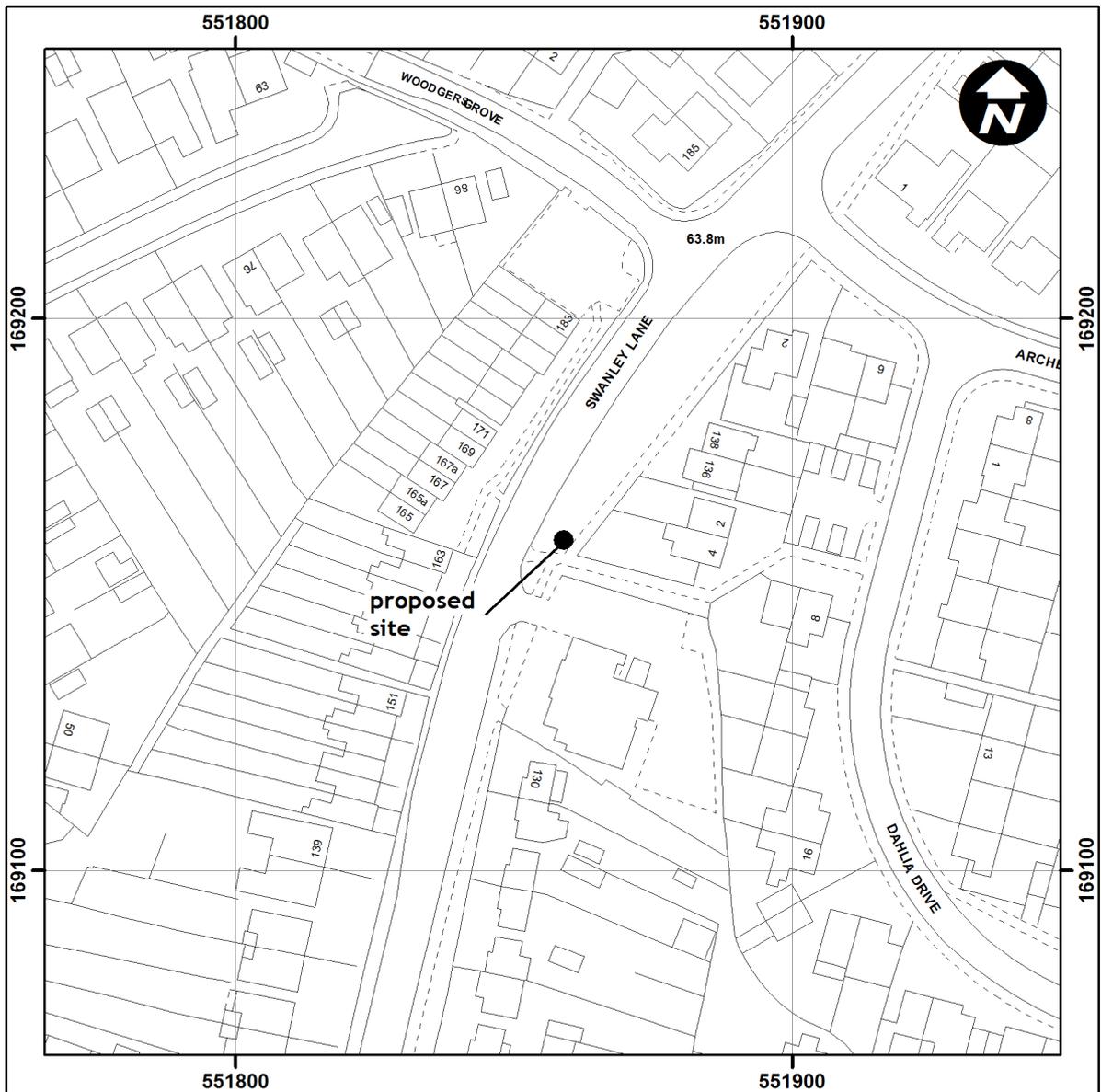
Richard Morris
Chief Planning Officer

Link to application details:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=O8RAI2BK0L000>

Link to associated documents:

<https://pa.sevenoaks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=O8RAI2BK0L000>



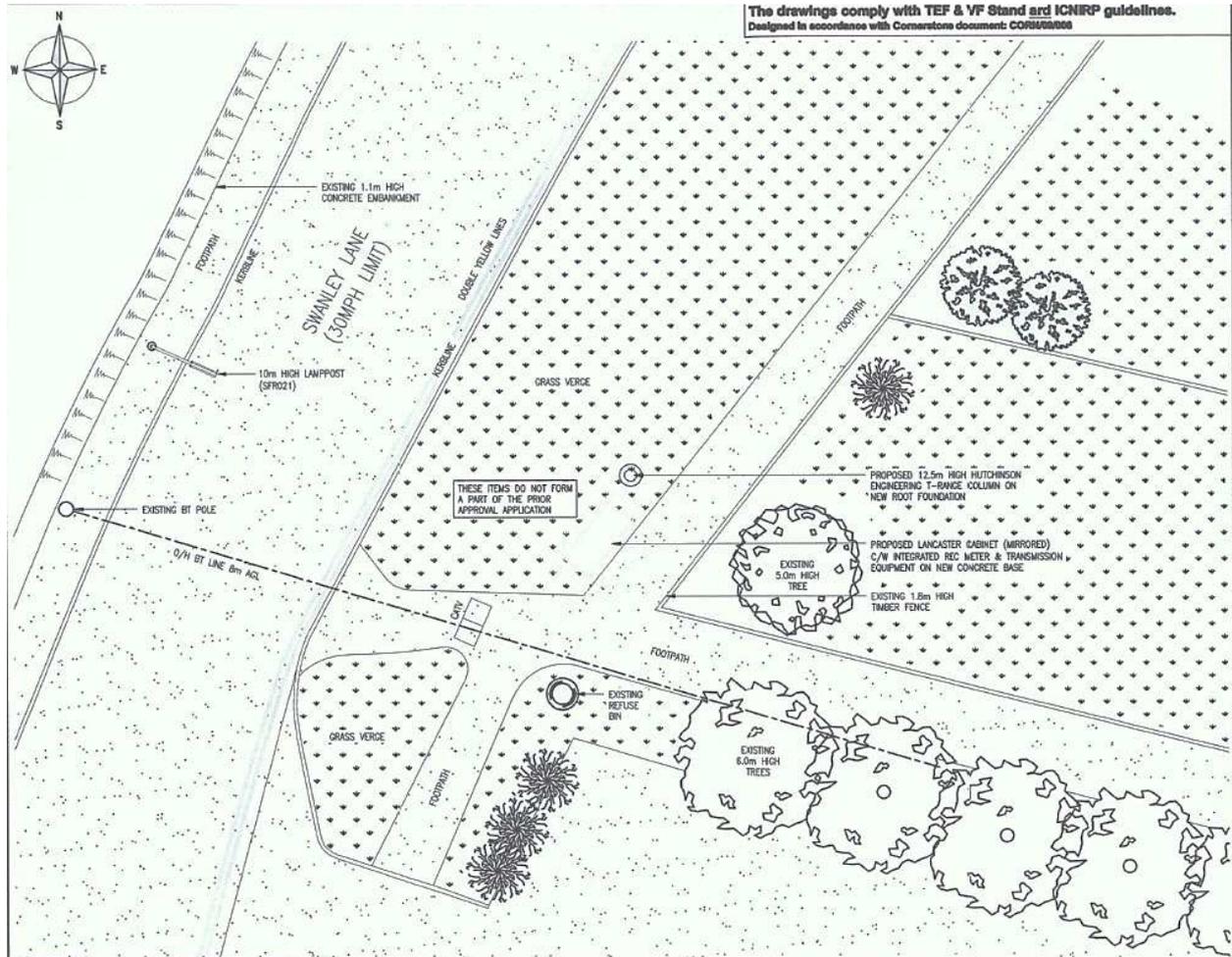
Site Plan

Scale 1:1,250
 Date 12/07/2016



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 Ordnance Survey 100019428.

Block Plan



Appeal Decision

Site visit made on 24 November 2015

by **C A Newmarch BA(Hons) MRICS MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 December 2015

Appeal Ref: APP/G2245/W/15/3106013

Highway Land at Swanley Lane, adjacent to Shaad Indian Restaurant, Swanley, Kent BR8 7LH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Vodafone Limited against the decision of Sevenoaks District Council.
 - The application Ref SE/14/03835/TELNOT, dated 4 December 2014, was refused by notice dated 2 April 2015.
 - The development proposed is erection of a 12.5m replica telegraph pole, with ground based equipment cabinets and ancillary development.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Vodafone Limited against Sevenoaks District Council. This application is the subject of a separate Decision.

Procedural matter

3. The application for prior notification of proposed development by a telecommunications code system operator was made under Schedule 2, Part 24 of the Town and Country Planning (General Permitted Development) Order 1995, as amended. That Order has now been replaced by the Town and Country Planning (General Permitted Development) (England) Order 2015, the most relevant section of which is Part 16 of Schedule 2. I have determined the appeal in accordance with the extant Order.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation.

Reasons

5. The replica telegraph pole incorporating six multiband antennas within its shroud would have a height of some 12.5m. It would be sited towards the rear of a grass verge adjacent to the footway in Swanley Lane. While it would be a clearly visible addition to the street scene, the slim pole would be of a design which has been found to be acceptable in sensitive locations including National Parks and Conservation Areas. Its appearance would not be materially out of

keeping with the poles supporting overhead electricity cables or the substantial lighting columns.

6. The trees in the rear gardens of Nos 2 and 4 Dahlia Drive provide only limited screening from the site. The pole would be visible from the rear windows and gardens of these and adjacent homes in Dahlia Drive, and from those on the opposite side of Swanley Lane. Its unremarkable appearance, however, would not be so unusual or overbearing as to be materially harmful to the residential amenities of neighbouring occupiers. Accordingly, the siting and appearance of the replica pole would not be seriously harmful to the character and appearance of the area.
7. However, the three equipment cabinets would be sited within the verge adjacent to the replica telegraph pole. They are referred to as grey on the application form, but as green in the appellant's full statement of case and on the photomontage, but I take this to be an error. More significantly, the Lancaster and Vulcan cabinets would each have a height of 1.65m and a length of 1.9m. Together with the smaller RBS 6102 cabinet they would form a row. The appellant contends that the cabinet would be small and unexceptional. I have examined the image in the submitted photomontage, but given their size and number, consider that they would be highly visible when approaching the site uphill from the north, particularly for pedestrians on the footway walking from the direction of Archer Way.
8. Equipment cabinets are generally commonly occurring features in the street scene, but the addition of three cabinets to this otherwise open grass verge would be unsightly and out of keeping with its appearance. Moreover, their proposed siting in relation to the close boarded fence at the rear of Nos 2 and 4 Dahlia Drive, would create a tunnelling effect on the footway. This would be seriously detrimental to the attractiveness of the existing footway. By blocking the inter-visibility between the path and the wider street scene, the cabinets would preclude natural surveillance, and would conflict with ensuring safe pedestrian movements in the vicinity of the site.
9. There is some disagreement between the parties as to whether the verge is designated as Amenity Open Space. A Policies Map extract has not been provided by either party. The scale of Map 7.2 in the Council's Open Space, Sport and Recreation Study, 2009, which shows the amenity spaces in Swanley, is too small to be able to discern whether it includes the appeal site. However, it is identified as Site 92 Amenity Green Space in the delegated report. Notwithstanding its allocation, the reduction to the area of open space would be very small, and in itself the harm would be limited. The loss would, however, be greatly outweighed by the harmful effects described above.
10. It is submitted that in other circumstances the cabinets could be permitted development. However, that is not a matter for me in considering the appeal as a whole.

Other matters

11. The appellant has demonstrated a need for an installation in this vicinity, considered alternative sites, and put forward a reasoned case for the appeal site, including reference to the appeal decision (Ref APP/G2245/A/12/2176614) at Edgar Close.

12. Moreover, although local residents have expressed strong feelings regarding possible health impacts of the installation, the appellant has confirmed in writing that it would operate in full compliance with the International Commission on Non-Ionising Radiation Protection guidelines.
13. In support of the proposal the appellant refers to appeal decisions at Widcombe-in-the-Moor (APP/J9497/A/08/2064768), Exeter (APP/Y1110/A/08/2062116), Orpington (APP/G5180/C/12/2182538), Ramsgate (APP/Z2260/A/06/2016569), Liverpool (AAP/Z4310/A/01/1072696), Southampton (APP/D1780/A/04/1162049), Blundellsands (APP/M4320/A/12/2170819), Norwich (APP/G2625/A/09/2098833), Hull (APP/V2004/A/11/2154903), and Cannock (APP/C3430/A/12/2172974).
14. At Widcombe-in-the-Moor the equipment cabinets would be almost completely hidden from public view by existing and proposed banks. At Exeter the appearance of the pole rather than the cabinets was principally at issue. In Orpington, the Inspector found that the mast and cabinets caused relatively minor harm to the character and appearance of the area. The extent of street furniture was a determinative matter in the appeal at Ramsgate, where the single cabinet would be seen against fencing and shrubs at the rear of the footway. The appeal at Liverpool concerned the erection of a mast just outside a country park, and was dismissed. In the appeal at Southampton my colleague found that vertical structures were an evident feature of a street scene characterised by commercial buildings, and did not refer to the impact of cabinets. At Blundellsands the equipment was proposed in a grassed verge, but it contained a scattered group of deciduous trees. The cabinets were to be set to the rear of the footpath, and would be mostly screened from view. In Norwich the tree screening and design of the proposal led the Inspector to find that the pole and the cabinets would be readily assimilated into the street scene. In Hull the installation was proposed in the central reservation of a dual carriageway where its siting would not impact the pedestrian footway. The appeal in Cannock focused on the visibility of a lattice mast in an urban edge Green Belt location.
15. These decisions are material considerations, which I have taken into account. However, while there are some similarities with this case, none is directly comparable to this appeal.
16. The appellant refers to the Council's handling of the application, but, other than insofar as it is considered in my separate Costs Decision, it is not a matter for me in this appeal.
17. I have taken into consideration all other matters raised, including the Government's support for high quality communications infrastructure in the National Planning Policy Framework (NPPF). There is a need for an additional installation in this area. The appellant has sought, but been unable to negotiate access to, the adjoining premises at the Shaad Indian Restaurant. I accept, therefore, that the appellant has been unable to identify a suitable alternative site.

Conclusions

18. Notwithstanding the benefits which would arise from the improvement to the mobile communications network, and my findings in relation to the replica pole, the harm arising from the proposed siting and appearance of the cabinets

would be significant and overriding. Considering the NPPF as a whole, I give greater weight to the visual amenity of the street scene and the requirement for safe and accessible environments where crime and the fear of crime do not undermine the quality of life. For these reasons, the proposal is not acceptable.

CA Newmarch

INSPECTOR