

Appellant reference: KDB/MBNL/27873APPEAL
LPA application reference: PN/25/99280
Appeal reference: APP/W1715/W/25/3369416

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED
DEVELOPMENT) ORDER 2015**

**Comments on the Local Planning Authority's
Statement of Case**

**On behalf of Mobile Broadband Network Limited, EE Ltd and H3G UK
Ltd.**

4th September 2025

A planning appeal by written representation against the decision of Eastleigh Borough Council to refuse Prior Approval for the installation of replacement telecommunications apparatus on the pavement at Drummond Road, Shamblehurst, Hedge End, Eastleigh, Hampshire, SO30 2AH

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1.0 Introduction

- 1.1 This statement considers the Council's Statement of Case and responds to elements that appear incorrect, misguided or otherwise of limited relevance to the issues that guide the planning decision for this appeal.
- 1.2 It does not introduce any new arguments and only provides evidence where this is useful in explaining either arguments already submitted or to refute those arguments put forward by the Council, in their Statement of Case.

2.0 Reasons for Refusal

- 2.1 We have already identified and commented on the reasons for refusal within our original appeal statement. We therefore only comment on elements within the Statement to which we take exception.

3.0 Elements within the Council's Statement of Case to be addressed

Paragraphs 4.2 & 4.3

- 3.1.1. The Appellants received a contractual Notice to remove their equipment from the existing mast, which has been accurately described in the background information section of the Appellant's Statement of Case. That has been proven by the demolition of the mast. The Planning Authority, while exercising control over the siting and appearance of the proposed replacement mast, do not have the level of control to consider all aspects of the requirements of a statutory undertaker (Code System Operator in this case), to consider such commercial and contractual aspects and legal contracts.
- 3.1.2. The Planning Officer finds fault with the site acquisition process. It does not satisfy his sense of challenge for the choice of site. With respect, it is considered that the level of challenge he seeks to impose is higher than that which is reasonable. The Appellant employed a competent radio planner, whose sole professional occupation is to consider how and where sites need to be located to provide the level of radio coverage required under their regulated Licence requirements. That requirement was passed to a competent site acquisition surveyor, whose sole professional occupation is to find sites that might be workable, in terms of apparatus deployment, land-ownership, town & country planning terms, physical constraints (such as underground services) and a range of other, site specific factors constraining telecom site deployment. This also has to be done in line with the pressures of time, to maintain radio coverage as an existing mast is being removed and many other developments, as other Operators are addressing the same challenges to maintain their respective networks, using existing structures in the area, which may have the effect of sterilising the structure, or positions on other structures, from competing Operators.

- 3.1.3. The Officer's critique of this process appears reasonable, from his perspective. However, each of the issues and elements he identifies would have been foremost in the mind of the radio planner and site acquisition surveyor, when considering the urgent requirement for a replacement mast. Each will have been dismissed for reasons that seem obvious to these professionals, because they are so familiar with the issues being raised. Examples of such reasons might include: potential sites identified by the Officer wouldn't work for operational reasons, they would create radio network overlap with nearby operational sites (with the prospect of creating interference) and still leave coverage gaps; contractually a site would not be feasible; an existing mast may not be available; access for construction and/or maintenance would be precluded; a building in the right location would not be structurally capable of supporting the necessary steelwork or antennas; issues of sensitivity to landscape, heritage property and ecological interests. This list is extensive, specific to each area and is understood through training, knowledge and experience. The discounted sites report considers only those sites that the acquisition surveyor considered might be feasible. Other sites, including those that might appear appropriate to the Planning Officer, will have been dismissed for reasons immediately apparent to the acquisition surveyor, such as those suggested above.
- 3.1.4. The Appellant's Statement of Case highlights the criteria for the planning decision, by providing evidence of the relevant factors, explaining the radio network need for a site in a particular area by providing radio coverage plots (Figures 4, 5 6 & 7) and considering the appearance of the proposed mast, in that context.
- 3.1.5. The radio coverage plots show the effect of losing the radio coverage from the existing site and the estimated extent of the radio coverage by installing the proposed site, in relation to the overall network. They illustrate the area where coverage is needed and therefore assist to show how the proposal fulfils the network requirement. While it would be simple to extrapolate additional information from this evidence, it is not always appropriate. For example, they do not define a site search area – it is quite possible that the best location for a site is outside the area of coverage loss, depending upon a range of factors, such as topography. Also the symbols used have a meaning which is not necessarily clear. The plots show the NTQ site (now demolished) as a three bladed fan type symbol, filled red when on and empty, black lines when off. This is almost hidden, for all coverage plots by a red, tri-sectored, circle symbol. This second symbol represents the Operators existing site on the tall mast, neighbouring the demolished mast, identified by the Officer as option i in para 4.3 and shown in his Figure 1. i.e. the Operator was already using both masts to provide network coverage. The Operator is precluded from raising their equipment on this mast, as the available space has already been taken by other Operators; the coverage maps show the gap in coverage including the effect of using this mast as much as possible; the need for the replacement proposed remains.
- 3.1.6. The level of detail, understanding of radio network planning and interaction between sites, is potentially confusing, counter-intuitive and sensitive, between Operators. It is, perhaps, for this reason that the National Planning Policy Framework states (p.123) that Local Authorities *"should not seek to ... question the need for an electronic communications system,"*. The relevance of the coverage plots is to illustrate that there

is a hole in coverage, with the loss of the old tower and the proposed new mast will provide significant coverage by way of replacement.

- 3.1.7. Given that planning permission has been granted by the GPDO and the Local Planning Authority's challenge can relate only to siting and appearance, the evidence submitted in the pre-application consultation, the application and the appeal statement provide a reasonable explanation for the need for the replacement site, a justification for that site to be located within a restricted area and that the proposed site represents the most appropriate site against seven alternatives. In spite of the Officer's passionate challenge, the evidence submitted satisfies the requirement described by Planning Policy and the Code of Best Practice.

Paragraph 4.4

- 3.1.8. The second site referred to is shown on the coverage plots, identified as Herald Road. It is covering a different area, to the south-west of the old site. It was fully taken into account when considering the need for the proposed site. This point confirms the explanation provided in paragraph 3.1.5 above.

Paragraph 4.5

- 3.1.9. As a consultee the Highway Authority rightly objected to the proposal, in order to maximise the safety of shared users of the pathway. It is accepted that the mast and cabinets will be placed within the paved area and, *de facto*, will cause an obstruction. However, sufficient width will remain to meet the minimum standards outlined within Government Guidance Documents (this issue was addressed as part of the rebuttal of the costs application (ref paragraph 2.5.7). Further, it should be noted, that the boundary of the paved area does not form the edge of the vehicular highway. There is a grass verge of almost 2m width that separates the edge of the path from the carriageway, mitigating the hazard of the obstruction, created by the cabinets and mast.

Paragraph 4.6

- 3.1.10. As explained above, the Officer has found it easy to interpret evidence in support of his argument. However, as assessed by the radio planner and site acquisition surveyor, there are no existing masts or buildings that are either suitable or available within the search area. If there had been, they would have been identified and used. (The first mast is already being utilised for the EE network; it cannot be further developed to accommodate the antennas at the necessary height (ref 3.1.5 above). The Botley Road mast is designed to support the antennas from one Operator. No additional antennas can be added to the structure).

Paragraph 4.7

- 3.1.11. Brick buildings with pitched, tiled roofs are generally unsuitable for use as a base for a telecom site. Structurally, the walls and (usually) timber trusses are not capable of supporting the weight of the steelwork and antennas. Aesthetically, a two storey building,

such as a house, would require a 14m+ steel structure added to the roof to position the antennas at a workable height, affecting the appearance of the building deleteriously. The statement that “some buildings are unsuitable” is reasonable.

Paragraph 4.8

- 3.1.12. The interpretation of the coverage plots has been covered above. The consideration of minimising the number of masts was foremost in the minds of the radio planner and acquisition surveyor as they considered the replacement for the demolished site. It is demonstrably in the interests of the Operator to minimise their infrastructure costs; if a new mast could have been avoided and the radio licence coverage requirements be met more simply by just fixing new antennas to an existing site, that choice would have been adopted.

Paragraph 4.9

- 3.1.13. It is agreed that the examples from the previous appeals demonstrate that “appropriate site searches and evidence of this are material to the consideration of whether the proposed site is acceptable”. The pre-application, the application and the appeal statement all provide details of the site search work carried out. Just because the Officer, using delegated powers, remains unsatisfied, does not mean that evidence has not been provided, appropriate to the planning justification and in accordance with Planning Policy and the Code of Best Practice.

Paragraph 4.11

- 3.1.14. It appears that The Officer has misunderstood the merit of the point made in the Appellant’s Statement. The location of telecom masts is governed by the physical parameters of radio waves, for coverage, and the intensity of masts is governed by the intensity of demand from users. Masts have to be located reasonably close to the potential users. The more users in a given area, the more masts are required. To cover urban/sub-urban areas, masts have to be located within them. Generally, and specifically in this case, it is difficult to find a site that is in anyway separate from residential housing, when the coverage has to cover such properties. With the development of digital services, masts have become more common in or adjacent to urban and sub-urban environments and more acceptable, as a result. The structures are generally taller than street-lighting of necessity, to provide the required coverage (otherwise there would need to be significantly more masts). They are a form of utilitarian tall, narrow infrastructure akin to street-lights; the cabinets are similar to bins and traffic management related cabinets. The immediate surroundings to the proposed site can be characterised by development of this nature. While being taller, the structure is, arguably, not dominant. There is no ‘disregard’ for the function of the prior approval system or the other elements suggested by the Council’s Statement.

Paragraph 4.13

- 3.1.15. In relation to the path width, the Council's Statement demonstrates the width available, which exceeds the minimum widths required by the Government's guidance, described at 3.1.8 above. To meet the network coverage requirement, the benefits of the development at this site, as opposed to the discounted alternatives, are considered sufficient to overcome the restriction to the pavement width, given its acceptability against the minimum standards.

Paragraph 4.14

- 3.1.16. The Officer seeks to suggest that sight lines would be interrupted by the mast and cabinets. If that were to be the case, it would be a highway safety issue, that would have been the basis of an objection from the Highway Authority. No objection was made by the statutory Highway consultee on this ground. The diagrams created by the Officer show a starting point set well back from the position a vehicle driver's eye would be from the junction, when assessing the hazard of pulling away from the junction. It is considered that the Officer's evidence is ill-founded and misleading.

Paragraph 4.15

- 3.1.17. It is not clear that sufficient weight has been given in the 'planning balance' to the benefits that stem from good levels of connectivity, provided by appropriate radio coverage, needing a replacement mast in the proposed location. The Appellant's Statement has identified the importance of good connectivity to meet Government objectives at paragraphs 2.1 and 2.2.
- 3.1.18. It is not clear how the economic and social harms referred to by the Planning Officer, relate to siting and appearance. It must be assumed that, in granting consent for proposals such as this through the GPDO, the legislation considers those elements are subservient to the benefits of connectivity, in the public interest.

4.0 Conclusion

- 4.1 The argument submitted by the Council is based on an appreciation of the planning issues identified by their Officer. It is clear that the Officer is passionate about those issues, and that the pursuit of the planning issues is in the interests of the public that the Council serves.
- 4.2 It is less clear that the Officer fully understands the evidence submitted as part of the proposed development, from the pre-application consultation, the application and the appeal. Nor is it clear that the Council fully appreciates the public benefit that will be provided from the connectivity that the proposed mast will provide. Perhaps this is understandable, as a function of development control; it is easier to concentrate on the consequences of a proposal, in planning terms, than a wider, somewhat intangible, public benefit. The consequence of the Council's approach has, however, introduced

factors that go beyond the professional competence of a Planning Department and led to an inappropriate consideration of the proposal. While it is appropriate to challenge evidence to a reasonable degree, the Council's expectations of evidence surpass what might reasonably be expected and has proved appropriate in other cases. In those situations, similar evidence was found satisfactory, even though the degree of necessary scrutiny was higher than for this site, due to the effect of those proposals on interests recognised for their historic or ecological importance.

- 4.3 We have provided appropriate evidence that alternative sites within the search area were thoroughly explored and found to be either technically unfeasible or unsuitable for various reasons, including redevelopment and operational constraints. The claim by the Local Planning Authority that there are less intrusive alternatives has been shown to lack merit, as many potential sites fall outside the designated search area or fail to meet the technical and operational needs of the network. Our submissions comply with the guidance provided by the General Permitted Development Order, the National Planning Policy Framework and the relevant Code of Best Practice.
- 4.4 The siting for the proposed mast was thoroughly tested, within the constraints of the existing radio network coverage, the operational requirements of the network system and site-specific circumstances within the site search area. The mast has been designed to minimise its visual impact and be as in keeping as can be designed with normal roadside street furniture. The benefits of the connectivity to be provided by the proposed development outweighs the planning harm, in siting and appearance grounds. We respectfully suggest there is nothing sufficient within the Council's Statement to overcome the Appellant's argument.