

## REPORT SUMMARY

<b>REFERENCE NO - 21/506690/FULL</b>			
<b>APPLICATION PROPOSAL</b>			
Removal of 1no. 12.5m street monopole, and replacement with 1no. 20m street monopole supporting 3no. antennas. Removal of 1no. cabinet and 1no. meter cabinet and replacement with 1no. new meter cabinet, and ancillary works thereto.			
<b>ADDRESS</b> Telecommunications base station at junction of Tonbridge Road and Oakwood Road Maidstone Kent ME16 8AN			
<b>RECOMMENDATION - APPROVE, subject to conditions.</b>			
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>			
A similar proposal has already been granted for the removal of a 12.5m monopole and its replacement with a 20m monopole. The re-siting of the new monopole is now proposed a few metres south than the previous consent, which moves it slightly nearer to the road, but it is not considered that the new siting causes sufficient harm to visual amenity on which to justify a refusal.			
<b>REASON FOR REFERRAL TO COMMITTEE</b>			
Cllr Kimmance requested referral based on visual impact caused by moving the siting of the approved 20m monopole.			
<b>WARD</b> Heath	<b>PARISH/TOWN COUNCIL</b>	<b>APPLICANT</b> Cornerstone <b>AGENT</b> Waldon Telecom Ltd	
<b>DECISION DUE DATE</b> 14/02/22	<b>PUBLICITY EXPIRY DATE</b> 13/01/22	<b>OFFICER SITE VISIT DATE</b> 07/01/22	
<b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>			
<b>App No</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
21/504936/FULL	Replacement of 1no. 12.5m monopole with 1no. 20m monopole, supporting 6no. antennas and ancillary works thereto.	Approve subject to conditions.	11/11/21
<i>Reasons:</i> Proposal was deemed acceptable in relation to visual impact and also in relation to residential amenity.			
19/502130/Twork	Installation of Electronic Communications Apparatus.	No further action.	13.05.21
<i>Reasons:</i> Proposals fell within permitted development criteria.			
13/0715	An application for telecommunications prior approval for the removal of the existing telecommunications pole and the installation of a replacement 12.5m high telecommunications pole with two dish antennas and two additional equipment cabinets.	Prior Approval Granted.	22.04.13
<i>Reasons:</i> Proposal was deemed acceptable and was acceptable in terms of visual impact and in terms of residential amenity and undertook mast sharing between companies.			
11/0654	An application for telecommunications prior approval for the installation of a 12.5m	Prior Approval	22.04.11

	high Vodafone/O2 telecommunications pole, 1no. equipment cabinet and ancillary development	Granted.	
<i>Reasons: Reasons: Proposal was deemed acceptable and was acceptable in terms of visual impact and in terms of residential amenity and undertook mast sharing between companies.</i>			

**Officer note:** This application was due to be considered at Committee on 20<sup>th</sup> January 2022. However, the item was withdrawn to allow the consultation period for the site notice to finish and for the item to be reported back after 28<sup>th</sup> January 2022.

## MAIN REPORT

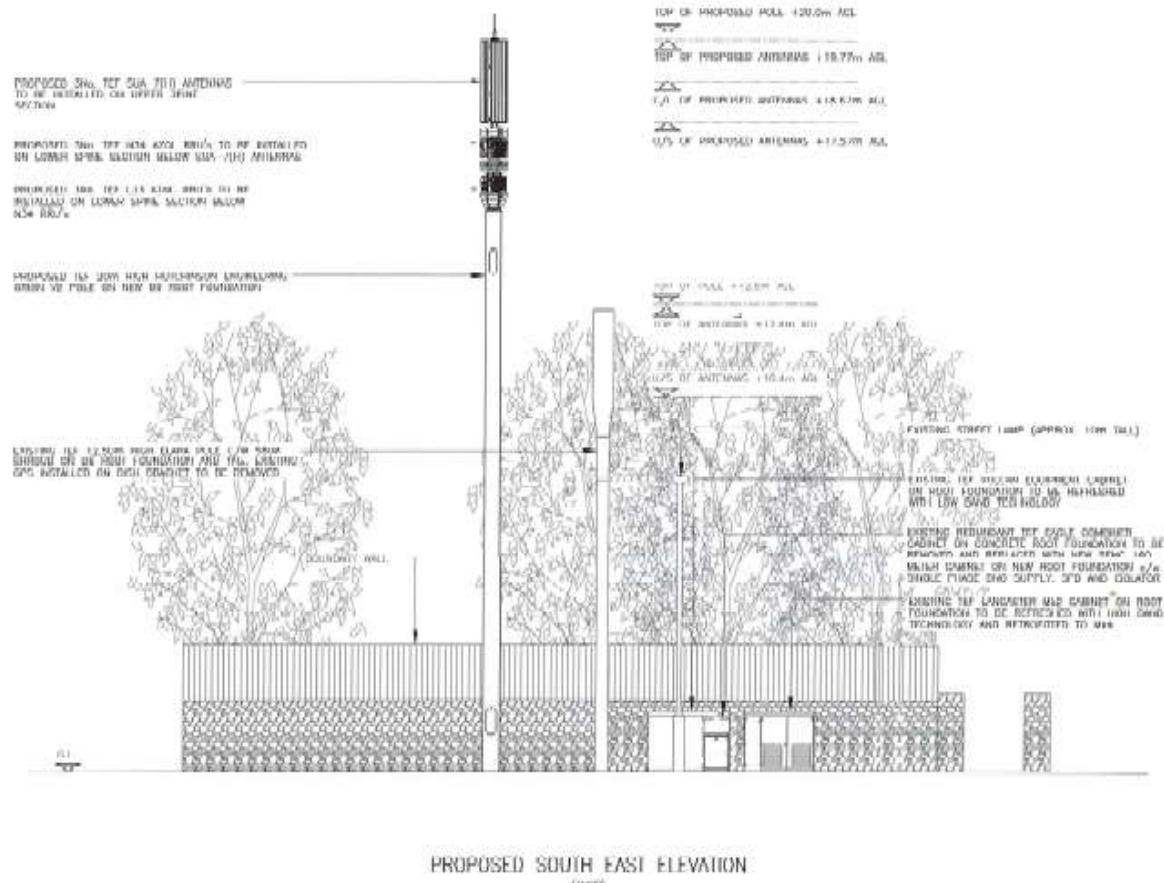
### 1.0 DESCRIPTION OF SITE

- 1.01 The application site is located at the junction of Tonbridge Road and Oakwood Road within the urban area of Maidstone. This general area is not the subject of any particular land use designations for example the site is not within the Conservation Area and there are not any listed buildings in the vicinity. The site involves a roughly triangular area of grassland, essentially surrounded by footways on all sides. There is another large area of grass verge separating the site and the adjacent footway from the busy Tonbridge Road junction. This area of grass contains two lampposts.
- 1.02 The land currently accommodates a 12.5m mast and associated paraphernalia, which includes two double cabinets and one smaller combiner cabinet and an inspection chamber (which is flush with the grass area). All current equipment is finished in dark green. To the northwest of the site is a ragstone wall with fence behind that marks the boundary between the highway and the curtilage of No. 236 Tonbridge Road, which has a significant tree boundary. There is a large bus stop layby and shelter to the west, which is the main drop off point for the adjacent school campus, which includes Oakwood, St. Augustine's, St. Simon Stock and Mid Kent College. The main entrance to the school complex and the grounds of Oakwood Park Grammar School are sited immediately to the north of the site and the Walnut Tree Pub to the east, beyond which terraced dwellings are sited.
- 1.03 There is a mix of business and residential properties located on the opposite side of the Tonbridge Road to the south. The property currently occupied by Bedroom and Kitchen Flair is sited immediately opposite the site and is separated from the Tonbridge Road by the footpath and a forecourt. There is a pair of semi-detached properties (nos.165-167) located to the east of Bedroom and Kitchen Flair, which are set back behind small front gardens. To the west of the business property, a row of terraced properties begins, most of which have front gardens that have been altered to areas of hardstanding, but which provide the properties with a set back from the footpath and main road.

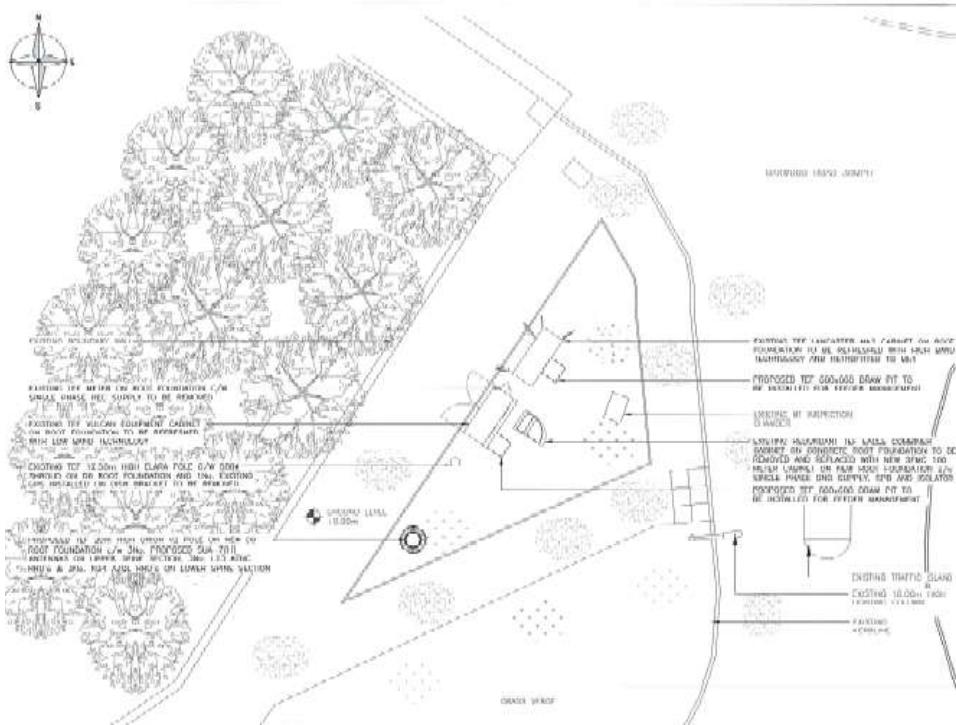
### 2.0 PROPOSAL

- 2.01 This planning application deals with the Replacement of 1no. 12.5m monopole with 1no. new 20m monopole supporting 3no. antennas and ancillary works thereto. This is to provide improved coverage and the latest technologies to this area, most notably in relation to providing, maintaining and enhancing 4G and 5G coverage and capacity. The ancillary works include the retrofitting of the two existing double cabinets, which externally will retain the same appearance. The replacement of the existing combiner cabinet with a new unit and the installation of 2 draw pits are

proposed adjacent to the rear of the cabinets, all of which are lower in height than the existing cabinets. The new monopole is proposed on the southern end of the grass triangle. All the equipment and mast is proposed to be finished in grey.



2.02 The image below shows the proposed block plan for the siting of the monopole:



2.03 Planning permission has previously been granted for the same development, including a monopole of the same height. The location of this pole, however, was further to the north of the existing pole and cabinets, on the top end of the grass area nearer to the school campus entrance. Both the elevational and site plans for the approved monopole are shown below:

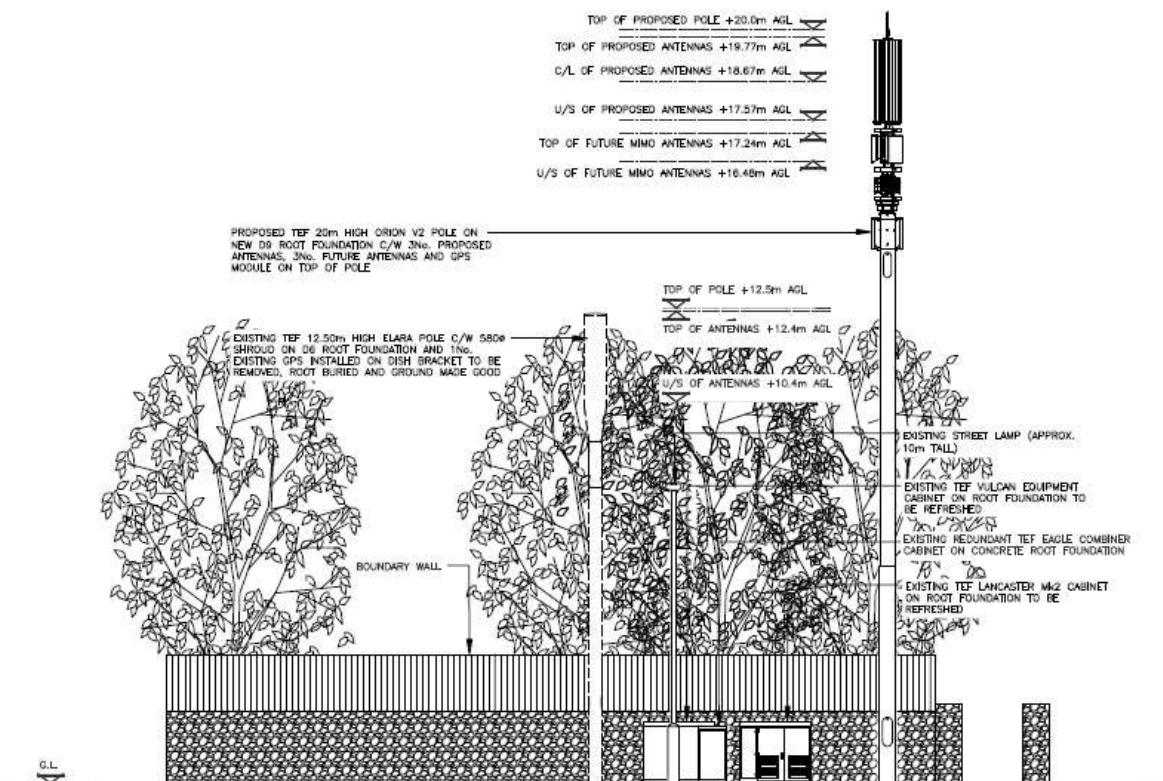
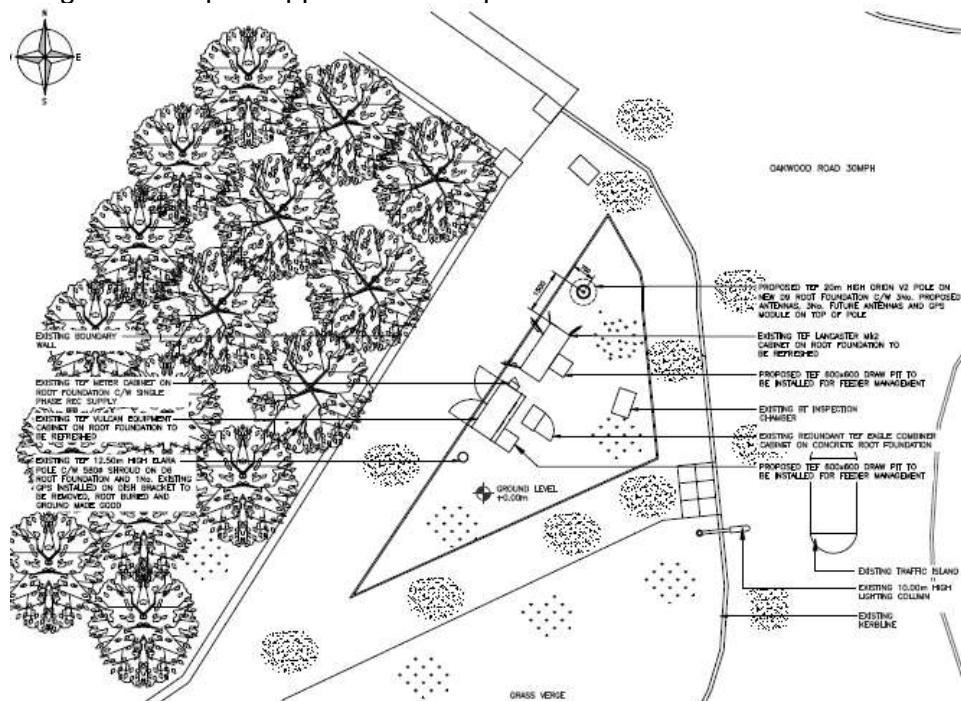


Image of monopole approved under permission reference 21/504396 – elevational view.



Location of monopole approved under permission reference 21/504396 – site plan.

- 2.04 In relation to the ancillary works, there is no difference between the approved scheme and the current proposal in relation to the retrofitting of the existing cabinets, erection of 2 new draw pits and the replacement of the TEF Eagle Combiner cabinet. As such, the remainder of this report, will focus solely on the proposed re-sited monopole, as the remainder of the scheme already has consent.
- 2.05 The proposed monopole would be sited approximately 2.7m further south than the existing 12.5m monopole and approximately 9.5m further south than the approved 20m monopole. The applicant has stated that a trial hole at the application site revealed underground utilities were present where the proposed replacement pole was located. As such an alternative design with a revised siting for the monopole has been put forward with this application. Conditions would be imposed to ensure the removal of the existing monopole within three months of the completion of the new monopole and to ensure that if planning permission was granted for this new location that only one of the new 20m monopoles could be constructed. However, in any event, the location of utilities effectively makes it very difficult for the approved pole to be constructed. A condition will also be imposed requiring the monopoles and cabinets to be finished in green, regardless of submitted details indicating grey, especially as all equipment on site is already finished in green.

### **3.0 SUMMARY INFORMATION**

	<b>Existing</b>	<b>Approved</b>	<b>Proposed</b>	<b>Change (+/-)</b>
Site Area (ha)	21 sq.m	21sq.m	21 sq.m	0
Approximate Height (m)	12.5m	20m	20m	7.5m from existing (0m from approved scheme)
Approximate difference in location	Located 9.8m from northern most top of grass triangle	Located 3m from northern most top of grass triangle	Located 12.5m from northern most top of grass triangle.	Approximately 2.7m further south than existing monopole (9.5m further south than approved scheme)

### **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.1 The following policy documents are considered relevant to this proposal:

- Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 16, Class A Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO)
- The National Planning Policy Framework (NPPF): Paragraphs 112 - 116 are relevant.
- Development Plan: The following policies of the Adopted Maidstone Borough Local Plan (2017) are considered to be particularly relevant:  
Policy DM1 – Principles of Good Design;  
Policy DM25 – Electronic Communications;

- Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 19) dated October 2021.  
Policy LPRSP15 – Principles of Good Design  
Policy LPRINF4 – Digital communications and connectivity  
*The Regulation 19 draft is a material consideration and some weight must be attached to the document because of the stage it is at but its weight is limited, as it has yet to be the subject of an examination in public.*

## 5.0 LOCAL REPRESENTATIONS

- 5.1 Two neighbours have sent two letters of objection in relation to the proposal. The issues raised have been summarised into the bullet points below:
- Siting and appearance of mast and associated paraphernalia would be of a height, scale and in a position that would be incongruous, out of character and harmful to local amenity, which is mainly residential in character.
  - To minimise visual impact, poles should not be sited in a prominent position at a junction or on a bend in the road. Other prominent locations on grass verges should be avoided unless there is a technical justification. Although poles are often installed on highway land, operators can give due consideration to siting on private land, where it would be both commercially and technically feasible and result in less visual harm. Applicant not shown compliance with code of practice for siting.
  - No specific details provided of alternate solutions using smaller antennae.
  - Proposal is not only solution and additional effort required for alternate solutions do not outweigh detrimental impact to the amenity of the local area.
  - Policy DM25 requires consideration be given to siting on existing buildings or appropriate structures; that every effort be made to minimise visual impact;
  - No effort been made to camouflage the mast, it is proposed to have a bare metal finish. Applicant should do more to lessen visual impact.
  - In an open and prominent position on a path with high usage due to nearby schools and will be visible from quite some distance.
  - Will appear different from existing mast as bigger and less screened by trees.
  - Health impacts not properly considered for previous proposal. Ofcom calculation of exclusion zones should be used.
  - Existing mast should not take any part in decision for siting of the proposed mast.
  - Incorrect documents, as one form appears to 6 no. antennas rather than the correct no. of antennas proposed, which is 3. (Officer note – description does refer to 3 antennas on monopole).
  - Applicant failed to provide detailed plans of what groundworks were undertaken on when trial holes dug for both previous and current application.
  - Applicant should have withdrawn previous application (21/504936) when it was apparent that the site was not appropriate due to underground utilities. (Officer note – the previous application was too near its target date to accept amended siting plans and the applicant was entitled to have that valid application determined).
  - ICNIRP compliance of the ‘public zone’ should be scrutinised by the LPA. Occupation and exclusion zones should be provided.
  - Applicant has advised that height of monopole is required to clear nearby trees. This does not allow for tree growth.
  - Ultra fast broadband and communication services are well matured and universally available through existing providers in the area.
  - Topography of the area means benefits of placing monopole at proposed site are negligible. A monopole has been approved at Gatland Lane which negates any benefit for a monopole on this site.

- Applicant has determined that upgrading current site is only and preferable option but has failed to considered other more appropriate sites.
- 236 Tonbridge Road is just 13 metres from proposal monopole with virtually no screening from nearby trees.
- Proposal will be visible from most windows on east and south aspects of building, views east from south facing garden will be dominated by monopole and sun in east will cast unwanted shadows across the garden and windows.
- Roadside views will be dominated by proposal. A prominent structure nearer to the roadside may contribute to road safety issues at junction.
- Proposed site will be overdeveloped. Grassed area will be destroyed.
- Application 19/502937/FULL (Minster on Sea) was refused on similar grounds to those outlined for Tonbridge Road.
- Application for a mast on Upper Fant Road was refused (21/500446) and virtually identical to this proposal.
- Refused application 21/504766TNOT56 was refused and outlined factors relating to a grass verge that could equally apply to Tonbridge Road site.
- Refused application 21/505460/TNOT56 was refused as at odds with streetscene, again similar to Tonbridge Road. Proposal will not be obscured or sit within a backdrop of anything.
- Recent judicial review case against Brighton & Hove City Council at the High Court of Justice. The High Court of Justice quashed the decision made by Brighton and Hove City Council, resulting in the refusal of the original planning application due to failure to address health impacts due to proximity to school and failed to consider whether proposal could be sited on an existing building or structure.
- Good reason to believe that this proposal would cause harm to nearby residents and wildlife at radiation levels well below the ICNIRP guidelines, and I ask that the evidence contained in this objection be properly assessed by the Director of Public Health, Pollution Control Officer or someone with the expertise to evaluate it, so that an evidence-based determination of the material planning consideration "incompatible and unacceptable use of the site" can be determined.
- An evidence-based decision about the material planning consideration "unacceptable use of land" due to polluting effects under NPPF 185 and your EECC 2018 role needs to be made despite the conflicting instruction to rely on ICNIRP in NPPF para118.
- Site appears to have been chosen solely on its coverage potential. Object on grounds of siting and the harmful, cumulative, polluting effects from the proposal.
- Insufficient consideration given to long term health of nearby protected trees.
- Proposal incompatible with Local Plan Policy DM3 Natural Environment which seeks to protect positive landscape character.
- Green backdrop does not apply as trees themselves are 4m lower than monopole height.
- Ground could be unstable as sink holes have appeared further along the Tonbridge Road.
- Could upset stability of nearby wall.
- More cabinets could increase noise, littering and graffiti.

## 6.0 CONSULTATIONS

6.1 KCC Archaeology, KCC Highways and Environmental Health were consulted. The Environmental Health Officer commented on 6<sup>th</sup> February 2022 as follows:

*"There are no matters arising from the main points of consideration and Environmental Protection is happy to approve this application."*

#### **INFORMATIVES**

*As the development involves demolition and / or construction, I would recommend that the applicant is supplied with the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected".*

- 6.2 No other consultee comments have been received. However, KCC Highways raised no objection to the previous application and the proposal is sited within the same triangle area of grass verge. Therefore, it is assumed that they did not wish to comment on this proposal as it is set a considerable distance back from the highway and is away from all sight lines for the junction of Oakwood Road and the Tonbridge Road, even with the monopole being proposed to be sited slightly forward of the previously approved position.

### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.1 The application comprises the following documents:

- Site Location Plans: 100 Rev. A;
- Existing Site Plan: 200 Rev. A;
- Proposed Site Plan: 201 Rev. A;
- Existing Site Elevation: 300 Rev. A;
- Proposed Site Elevation 301 Rev. A;
- Cornerstone Cover Letter, received 15<sup>th</sup> December 2021;
- Cornerstone ICNIRP Declaration with Clarification Statement;
- Cornerstone Supplementary Information;
- General Background Information for Telecommunications Development;
- Health and Mobile Phone Base Stations;
- Mobile Connectivity Brochure;
- Notice to Owner Letter & Planning Notice;
- Radio Planning and Propagation;
- Application Form.

### **8.0 APPRAISAL**

#### **Principle of Development**

- 8.01 In terms of supporting high quality communications infrastructure, the National Planning Policy Framework (NPPF) states;

*"Advanced, high quality 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." (paragraph 114).*

- 8.02 And that;

*"The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic*

*communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.” (paragraph 115).*

8.03 Further, the NPPF states;

“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.” (paragraph 118)

8.04 Paragraph 20 of the NPPF (2021) sets out that strategic policies should allow for the pattern, scale and

design of quality of places for :

b) infrastructure for transport, **telecommunications**, security, waste management.....

8.05 This application would be assessed under DM25 (Electronic Communications) of the adopted Maidstone Local Plan. The policy supports new masts providing they comply with the following:

1. It is demonstrated that mast or site sharing is not feasible and the apparatus cannot be sited on an existing building or other appropriate structure.

2. A less environmentally harmful means of providing the same service is not feasible.

3. Every effort has been made to minimise the visual impact of the proposal.

4. Proposals adhere to government advice on the health effects of exposure to radio waves.

5. Consideration is given to future demands of network development.

8.06 The Local Plan Review is out to consultation and carries some, but limited weight.

When considering the direction of travel of policies relating to telecommunications the policy sets out the following, albeit as this has yet to undergo scrutiny limited weight is attached :

3. Proposals for the enhancement of mobile connectivity including through the provision of mobile data networks (such as 5G mobile data), will be supported, subject to compliance with relevant policies in this Plan, and with national policy.

Where permission is required, proposals for new masts and antennae by telecommunications and code systems operators will be supported provided:

i. It has been demonstrated that mast or site sharing is not feasible and that the apparatus cannot be sited on an existing building or other appropriate structure that would provide a preferable environmental solution;

ii. It has been demonstrated that an alternative, less environmentally harmful means of providing the same service is not feasible;

iii. Every effort has been made to minimise the visual impact of the proposal;

iv. Proposals adhere to current Government advice on the health effects of exposure to radio waves; and

v. Consideration has been given to the future demands of network development, including that of other operators.

## **Evidence Submitted by Applicant to Support the Application**

### Need

- 8.07 The need for a 20m monopole in this location to serve the Tonbridge Road area around Oakwood has already been accepted with the previous consent. The applicant explains in their statement that the need to relocate the pole slightly further to the south is based on the existence of utilities that were revealed as a result of a trial hole. It is set out in paragraphs 3.6 and 3.7 of the supplementary information document that:

*"3.6 The 5G network is a unique technology and it requires a bespoke approach. It is not being rolled-out in the same manner as the previous 3G and 4G networks. We do appreciate that some Local Authorities have become accustomed to seeing a geographical coverage footprint of a new or upgraded site, where coverage plots were commonplace within applications. Unfortunately, the same is not available for the 5G network roll-out. There are no 5G network coverage plots being produced for individual cell sites as this is a very fast-moving project with the 5G network constantly evolving as more and more sites are added to the Operators' networks.*

*3.7 These 5G networks will build upon the existing 4G networks which will effectively form the infrastructure "spine" for this next generation of mobile networks. We respectfully remind all Local Authorities of the direction provided by the Government within the NPPF, i.e. that they should not seek to prevent competition between Operators or question the need for an electronic communications system (para 118), and also that the expansion of next generation mobile technology should be supported (para 115)".*

- 8.08 The supporting statement also sets out that the proposal will provide additional capacity, whilst making use of an existing base station:

*"4.1 This critical digital infrastructure will provide improved capacity for 4G and also new cutting-edge 5G coverage for Telefonica to the surrounding area. The applicant is able to introduce new services into the area, without the need for an additional base station, thus keeping the number of masts to a minimum. As the increase in height of the monopole is required to ensure the safe and effective operation of the site, traditional coverage plots will not illustrate the need and have not been produced.*

*4.2 The provision of poor communication services has well recognised economic and social impacts on communities and businesses. Importantly, the base-station would provide increased network capacity, allowing quality service provision to a higher number of people at the same time. Improving cellular connectivity is led largely by demand. The very high level of mobile phone use in the UK requires the installation of additional base stations to provide the necessary connections".*

### Why site was chosen

- 8.09 The supporting statement sets out :

*"5.1 In accordance with planning policy, a sequential approach to site selection was adopted. The applicant's network rollout team investigated the following siting and design options using this sequential approach to site selection:*

*1. Upgrading their own existing base stations;*

- 2. • Using existing telecommunications structures belonging to another communications operator. i.e. Mast and/ or site sharing, co-location;
- 3. • Installations on existing high buildings or structures including National Grid pylons;
- 4. • Using small scale equipment; and finally
- 5. • Erecting a new ground-based mast site – (1st) Camouflaging or disguising equipment. (2nd) A conventional installation e.g. a lattice mast and compound.

5.2 The opportunity to upgrade an existing site was given preference over installation of an additional base station. The need to enhance the network means that coverage could be improved by upgrading apparatus at an existing communications site, in line with the NPPF and Code of Best Practice on mobile network development 2016”.

- 8.10 The reason for the re-siting of the monopole further to the south on the grass verge than previously approved is also explained by the application that this section of land is the only area which is clear of any underground utilities, but it would also ensure that the monopole would be in line with all other equipment, allowing the general site layout to be maintained as a simple linear layout.

Reason for design

- 8.11 The supporting statement sets out the following rationale for design:

“3.8 The equipment’s design is based on the principle of meeting operational requirements of the mobile operator Telefonica (trading as O2), whilst minimising the impact on the surrounding, as far as technical constraints allow.

3.9 The base-station has been designed to accommodate apparatus, allowing for improved provision 4G mobile connections to the surrounding area. It has also been designed to accommodate new 5G technology, introducing ultra-fast mobile connectivity capable of operating the ‘Internet of Things’. This proposed infrastructure will provide higher mobile down-load speeds and more reliable, quicker phone connections. There would be increased capacity to provide services to a higher number of people at the same time.

3.10 The number and scale of proposed antennas is informed by the number of communication services being provided (4G, 5G etc.) and because of the high technical capability of 5G services. The proposed antennas are wider than the existing antenna and physically cannot be accommodated into the existing monopole, thus a new structure type is required.

3.11 The antennas must be allowed to unrestrictedly emit a radio signal, meaning they can’t be shrouded or concealed and need to be sited at an elevated position, to enable the radio signal to clear surrounding structures, such as buildings and trees, with the aim of avoiding interference. The radio frequencies that 5G operates at is particularly sensitive to interference from solid objects, which necessitates securing the antennas at the height proposed. This is the lowest height required in order to achieve an antenna height which will enable the radio signal to clear the nearby trees and reach the areas where mobile reception is required whilst complying with standards set by the International Commission on Non- Ionizing Radiation Protection (ICNIRP) and therefore, cannot be reduced any further.

3.12 The monopole’s unfussy design ensures impact is minimal and does not cause

*unacceptable harm to the surrounding area. In all aspects of the design now put forward the smallest practical components have been utilised to ensure that the visual impact of the development is kept to the absolute minimum.*

*3.13 The aforementioned factors have informed the design of the proposed equipment which is of the minimum amount and scale possible, while still meeting structural and radio planning requirements.*

*3.14 As previously mentioned, the location of the monopole is proposed to be moved approximately 3.3m south west of the existing monopole. The replacement monopole cannot be built on the old root, and as such a section of highway which is clear of any underground utilities has been identified. The new location for the replacement monopole will remain in line with all other equipment, allowing the general site layout to be maintained, as a simple linear layout. As such, the visual change involved with the new location of the pole is limited and maintains the accessibility for the highways and pedestrians.*

*3.15 The aforementioned factors have informed the design of the proposed equipment which is of the minimum amount and scale possible, while still meeting structural and radio planning requirements.*

*3.16 All apparatus required will play a vital role in the provision of improved network services for O2's mobile network. The scale and amount of apparatus has been limited to the minimum with which this can be achieved at this site. Despite it being acknowledged that there will be some visual change to this site, due to technical constraints, the design cannot be reduced any further, and although it is acknowledged that the installation may cause some level of visual harm to the area, it is considered that the benefits to the network brought by this proposal will outweigh this harm".*

- 8.12 The statement confirms that the height has been kept to the minimum necessary to provide the service required. It should be noted that a 20m monopole has already been approved on this site. The main issue therefore is the site layout, with the pole moving 3m to the south of the existing 12.5m monopole which is to be removed.

#### ICNIRP (telecommunications health impact assessment)

- 8.13 An ICNIRP certificate accompanies the application and therefore issues surrounding impact on health should not be given significant weight here and therefore Officers are satisfied that the development would not cause adverse harm to members of the public. The application is accompanied by the following information relating to health matters :

Health and mobile phone base stations  
ICNIRP Declaration  
Radio and Propagation  
5G Masts and Health

- 8.14 No health matters were raised in relation to the previous approval and so it is still considered that the proposal is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure, as expressed in the EU Council recommendation of July 1999, and the subsequent update in 2020.

- 8.15 The National Planning Policy Framework clearly sets out :

*"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."* (Para 118)

Overall

- 8.16 In line with paragraphs 114 - 118 of the NPPF, the applicant has sought to demonstrate the need for the mast and ancillary equipment and why the proposed site has been chosen.

**Visual Impact**

- 8.17 Policy DM1 of the Local Plan sets out that proposals shall :

*'Respond positively to, and where appropriate enhance, the local, natural or historic character of the area. Particular regard will be paid to scale, height, materials, detailing, mass, bulk, articulation and site coverage – incorporating a high quality, modern design approach and making use of vernacular materials where appropriate.'*

Policy DM25 sets out, firstly in the pre-amble :

*'Development should be sited, where possible, to minimise visual impact' (para 6.108)*

As part of the policy :

- (i).It is demonstrated that mast or site sharing is not feasible and the apparatus cannot be sited on an existing building or other appropriate structure.*
- (ii).A less environmentally harmful means of providing the same service is not feasible.*
- (iii).Every effort has been made to minimise the visual impact of the proposal.*

- 8.18 It is of course inevitable that the mast would have a visual impact, both due to its height and associated street furniture in terms of the extent of cabinets and paraphernalia. There is little that can be done to mask the visual impact of a pole mast, especially when it is proposed to be sited within an area which is an open verge. As such a pragmatic approach needs to be taken as to whether the siting would be significantly harmful, given the utilitarian appearance of the mast. As for the previous approval, it is considered that the application has been accompanied by sufficient information to justify the need and that the applicant has utilised best practice in upgrading an existing mast location rather than looking for a new site.

- 8.19 In this case it has already been considered acceptable and that a new 20m monopole to replace the existing 12.5m mast would not introduce such an alien feature that would cause harm to this main thoroughfare. Indeed the original assessment in the delegated report for the approved 20m monopole stated that the new mast:

*"... would be higher than the existing 12.5m high mast, and inevitably will be visible within the street scene, both along Tonbridge Road, Oakwood Road and within the school complex to the north. Views would also be possible from neighbouring*

residential properties. However the mast would be sited further towards the northern edge of the verge, thus being less prominent at ground level when approached from Oakwood Road (as it would not be directly central as is the case with the current mast), when viewing from Tonbridge Road it again would be further from the highway frontage, thus existing built form and to some extent vegetation (which can be relied upon to a lesser extent a permanent screening) would obscure some views at ground level. There maybe some longer range views of the mast due to the increase in height, however these are diminished by the surrounding topography and the dense surrounding urban environment”.

- 8.20 The issue which remains to be considered in this application is whether the re-siting of the approved mast further south towards the edge of the grass verge would result in an additional degree of visual impact so that the proposal would become unacceptable. It is considered that it would be difficult to refuse an application for the same 20m monopole that has just been approved on the same area of grass verge, due to the siting moving approximately 3m to the south of the existing 12.5m high mast. It would be approximately 12.5m south of the siting of the approved 20m mast. The overall amount of land laid to grass would remain the same. It is noted that there is another large grass verge between the grass verge of the application site and the Tonbridge Road, ensuring that the proposed re-sited monopole would still be set well back from the highway (approximately over 12m) and also no further forward than any of the adjacent front boundaries for the housing to the west or the public house to the east. As such, long distance views of the monopole from along the Tonbridge Road would still be limited by boundary treatments, the dense built form of the area and mature landscaping. Although it would be more visible than the existing 12.5m mast, it would still be set back far enough from the road frontage and adjacent boundary treatments so that its visual impact is sufficiently reduced.
- 8.21 The revised siting also retains the existing linear layout of the existing telecommunications equipment by ensuring that it does not project further forward towards Oakwood Road or towards the ragstone wall to the west. The height of the street lamps on the adjacent grass verge to the front also further blends the development into its surroundings. The ragstone boundary wall of 236 Tonbridge Road on the southern boundary extends nearer to the road than the proposed monopole, therefore, ensuring that the proposal would not be overly prominent, but well sited away from the road and away from the front grass verge on the junction. The finish of the mast and the cabinets in green (via condition) would also further blend the proposal into the green backdrop of trees. Even if the mast would be higher than the trees, the colour would still blend it into the backdrop, and the trees will also grow higher over time. It is therefore considered that every effort has been made to minimise the visual impact of the mast, whilst utilising an existing base station and avoiding the need to seek a new site.

### **Residential Amenity**

- 8.22 In terms of residential amenity, the nearest residential property is number 236 Tonbridge Road and the neighbouring property to the north-west. To the east is the Walnut Tree Public House and is separated by a fairly wide road junction and to the south there are a mix use of properties, however these are separated by the road itself and a wide verge such that although there maybe glimpse views of the mast, the proposed siting and additional height is unlikely to have a greater impact than that of the existing 12.5m high mast, even with the location moving further forward.

### 1 Grosvenor Court

- 8.23 Number 1 Grosvenor Court is to the north-west of the site and is orientated with its rear elevation facing toward Tonbridge Road. The approved 20m mast would be approximately 40m from this property. The re-sited mast would be even further away (approximately 45m) and although some views of the approved and proposed mast may still be visible above the tree-line of the protected trees in the front garden of no. 236 Tonbridge Road, due to the slim-line nature of the mast and the distance, it is not considered that it would inherently harm residential amenity in terms of those matters which are set out in local or national policy, the fact that something is visible does not in itself make it harmful. It is considered that this current proposal would actually have less visual impact on this property than the approved monopole.

### 236 Tonbridge Road

- 8.24 Number 236 is the property in closest proximity to the site, the property takes access of the access road to the north of the site with the area immediately adjacent to the site forming the front garden of the property, providing the parking and turning area. This area is dominated by two protected trees. There are windows in the east and south facing elevations of the property. The approved mast would be approximately 20m from the dwelling itself, whilst the new mast measures approximately 16m from the corner of the dwelling. The existing mast is also in closer proximity to the property than the approved mast, and the existing and proposed mast would both be more exposed by being further south of the trees. However, that said, there is still a considerable distance between the proposal and No.236, which is also benefitted with a tree screen that is subject to TPO protection. Number 236 is in an elevated position, which minimises the impact of the height of the monopole. It is only the forward most window on the side (eastern) elevation of the property at first floor level that will have a more direct view of the proposed monopole and this would appear to be a secondary window to the main front window. The larger side first floor window is set further back and so would be screened by the protected trees.
- 8.25 However, as already stated, just because something is visible does not in itself make it harmful. For the application to be considered harmful in terms of affecting amenity, it would need to significantly impact on the outlook from the property. In terms of being overbearing, overshadowing or causing loss of light or affecting other aspects normally associated with amenity, the mast, although tall, would be relatively slim-line and could not be considered harmful in this regard. Overall, it is considered that the siting is located on an existing base station, it follows the existing linear pattern of the development and it blends in with the surrounding urban environment. The difference in siting is not considered to result in sufficient additional visual impact that could justify a reason for refusal based on harm to residential amenity. It is not considered that there would be any significant impact on residential amenity.
- 8.26 When assessing outlook, the Council's Residential Extension SPD sets out at paragraph 5.55 :

*'The Borough Council is primarily concerned with the immediate outlook from neighbours' windows, and if a proposal significantly changes the nature of the normal outlook. For example, it would be unacceptable for the resulting outlook from a main window to be of a large wall of a residential extension.'*

In this case it has been previously accepted that the 12.5m high mast is not harmful and any outlook from windows of this mast is considered acceptable. The moving forward of the proposed mast by 3m and the increase in height, would result in some

increase in visibility, but the proposal is still sited on a grassed area set well back from the highway by over 10m and from the nearest house by over 16m. Therefore, although it will become possibly slightly more visible from the upper side window of No.236, the resultant impact is not considered to be significantly harmful to outlook due to the distance, land levels, protected tree screen and the nature of the mast.

- 8.27 Overshadowing has also been raised as an issue by a neighbour, but it is not considered that the mast would cause any harmful overshadowing, on the dwelling or the garden area, not least due to its proposed siting to the east of the dwelling which would only affect morning light, but also due to the raised land levels of 236, the slimline design and also the mature tree screen, which would cause far more overshadowing and loss of light to the amenity and garden area of 236 in early morning than the proposed slimline monopole.

#### **ICNIRP (telecommunications health impact assessment)**

- 8.28 An ICNIRP certificate accompanies the application and therefore issues surrounding impact on health should not be given significant weight here and therefore members should be satisfied that the development would not cause adverse harm to members of the public. No objections have been raised by Environmental Health.
- 8.29 Both objections received from two local residents make reference to health grounds. However, it is considered that the necessary guidelines have been met and the application could not be refused on health matters. Furthermore, it must be noted that this site is an existing telecommunications site. The proposal would not increase the number of masts at the site, the existing 12.5m monopole would be replaced with a 20m monopole. There is already an existing consent for a 20m monopole at the northern end of the site. This is all relevant to the consideration of this application and highlights that, in terms of health and safety, the resiting of a mast would not have any material impact or difference on health.

#### **Previous Decisions on Telecommunication Sites**

- 8.30 Reference is made by one of the objectors to decision 21/500446/TNOT56 in Upper Fant. This proposal for a monopole was refused due to visual impact as it was sited along an actual pavement where no existing mast and no other point of height reference anywhere in the street scene. As such, it is not considered similar to the Tonbridge Road site which is an existing site and has other vertical street furniture around it and a backdrop of trees.
- 8.31 Refused application 21/504766/TNOT56 related to a site on Sittingbourne Road and was refused. An objector states that the refused proposal outlined factors relating to a grass verge that could equally apply to Tonbridge Road site. However, this site was a virgin site and so had no existing equipment and had a tree located immediately adjacent to works on same grass verge and on the same level, which raised tree protection issues.
- 8.32 An objector also refers to refused application 21/505460/TNOT56 was refused as at odds with streetscene, again similar to Tonbridge Road. However, this site was at Cumberland Rd and was once again on a very open and virgin site, with no existing monopole or equipment and with no backdrop or tree screen to aid assimilation of mast. This current application does have a backdrop and an existing mast and other street furniture with a strong vertical presence.

- 8.33 An objector refers to a recent judicial review case against Brighton & Hove City Council at the High Court of Justice. The High Court of Justice quashed the decision made by Brighton and Hove City Council, resulting in the refusal of the original planning application due to failure to address health impacts due to proximity to school and failed to consider whether proposal could be sited on an existing building or structure. Again, it must be highlighted that this application site is already used for telecoms and has an existing mast, which is to be replaced by proposed mast. It is making best use of an existing site and so it would be difficult to justify an alternative location rather than make use of an existing site. Health impacts would be unchanged as it would be sited on same grassed area and there would be no increase in number of masts proposed. Therefore, it is considered that this application has any great similarities to the Brighton & Hove City case and also each case must be considered on its merits. The examples of the refusals made by Maidstone Borough Council demonstrate that each application is considered carefully and its merits and that they are refused if they are assessed to be unacceptable. The government encourages the best use to be made of existing telecommunications site and it is considered that this is what this proposal would do. There would be the same amount of grass verge remaining, wherever the monopole would be sited, as all the replacement mast would have a slimline design with a narrow base and so would not take up any more space than the existing or approved mast.

### **Other Issues**

- 8.34 The proposal because of its location, scale and nature, would not have a significant impact on visibility splays or highway safety. It is not sited anywhere near any visibility splays for Oakwood Road or Tonbridge Road. It is sited on a second grass verge, away from both roads, with another grass verge and pavement between the proposal and the road. As such, road safety and other highway issues raise no issues of concern for this proposal.
- 8.35 Representations also raised concern that the works would result in a greater level of anti-social behaviour. This site already has a monopole and it is not considered that the replacement of one mast with another would result in any increase in graffiti, littering or other anti social behaviour.
- 8.36 Concerns are raised regarding the impact on existing retaining wall serving as a boundary for 236 Tonbridge Road. However, there is pavement between the proposal and the wall, providing sufficient distance that should ensure no disturbance to the wall or the trees behind it. Furthermore, the monopole is sited on the same run as the existing equipment and would not be any nearer the wall than the existing equipment. If any damage should occur, however unlikely, this would not be a material planning consideration, but it would be a civil matter between the applicant and owner.
- 8.37 Concern has been raised about the protected trees near to the site. The protected trees are located behind the retaining ragstone boundary wall of No.236 London Road and separated by a pavement. As the trees are also at a raised level, the proposal would not harm the root structure of the trees, with the existing wall containing the root structures to the garden area of 236. Again, as the monopole would be sited on the same run as the existing equipment and underground utilities, it would not be moving any nearer the trees or their roots.
- 8.38 An objection has also stated that the proposal is not needed in terms of coverage due to mast approved in Gatland Lane and that this would provide adequate coverage to the Tonbridge Road area. The issue of network coverage and need has

effectively been covered by the previous approval. However, it is still considered important to highlight that the Gatland Lane mast would not provide coverage for this part of Tonbridge Road. The application site currently serves as part of the existing network coverage. The increase in height is required to improve that network with the rollout of 5G, whilst preventing the requirement for an additional site. Improvement of existing sites will provide the spine for this improvement to the next generation of mobile networks. The government places a strong emphasis on supporting the expansion of the technology networks, becoming all the more important with the reliance on technology and home working.

## **9.0 CONCLUSION**

- 9.01 Overall it is considered that the increase in height of the proposed mast, taken in conjunction with the proposed relocation, would be visually acceptable and would not be so harmful to outweigh planning policy which weighs in favour of the improvement in telecommunications which needs to be facilitated by new or replacement infrastructure. The proposal would also be acceptable in terms of the impact on neighbouring amenity and the replacement mast would not be significantly more harmful than the existing mast, the approved mast or when considered on its own merits. The proposal makes use of an existing base station and ensures mast sharing and so meets the objectives of both government and local plan policies.

## **10.0 RECOMMENDATION – Grant Subject to the following conditions:**

CONDITIONS to include

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission;

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Number 201 Rev A (Proposed Site Plan) - received 15/09/21

Drawing Number 301 Rev A (Proposed South East Elevation) - received 15/09/21

Supplementary Information - received 15/12/21

Reason: To clarify which plans have been approved.

3. Notwithstanding the submitted details, the finish to the monopole and cabinets hereby approved shall be steel with a dark green finish. Details of the colour finish shall be submitted to and approved in writing by the Local Planning Authority and the approved colour finish shall be applied prior to the first use of the monopole and cabinets and permanently maintained thereafter.

Reason: To ensure a satisfactory appearance to the development

4. Within 2 months of the erection of the mast hereby permitted, or a timescale submitted to and approved by the Local Planning Authority, the existing 12.5m mast shown to be removed on Drawing Number 301 Rev A (Proposed South East

Elevation) and Drawing Number 201 Rev A (Proposed Site Plan) shall be removed from the site and the ground made good.

Reason: In the interests of visual amenity.

5. Permission reference 21/504936/FULL (for the replacement of 1no. 12.5m monopole with 1no. 20m monopole, supporting 6no. antennas and ancillary works thereto) shall not be implemented, either in part or full, if this permission, under reference 21/506690/FULL, is implemented either in part or full or vice versa

Reason: In the interests of ensuring only one planning permission is implemented preventing a proliferation of masts and in the interests of visual amenity and ensuring mast sharing.

## INFORMATIVES

(1) It is the responsibility of the applicant to ensure, before the development is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority.

Across the county there are pieces of land next to private homes and gardens that do not look like roads or pavements but are actually part of the road. This is called 'highway land'. Some of this land is owned by The Kent County Council (KCC) whilst some are owned by third party owners. Irrespective of the ownership, this land may have 'highway rights' over the topsoil.

Information about how to clarify the highway boundary can be found at  
<https://www.kent.gov.uk/roads-and-travel/what-we-look-after/highway-land/highwayboundary-enquiries>

The applicant must also ensure that the details shown on the approved plans agree in every aspect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

(2) As the development involves demolition and / or construction, the applicant should refer to the Mid Kent Environmental Code of Development Practice. Broad compliance with this document is expected.

Case Officer: Diane Chaplin

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.