DELEGATED REPORT

Application Reference:	PL/2023/08914
Application Type:	Planning permission
Site Address:	Hazelwood Farm, Seagry Road, Chippenham
Proposal:	Removal of existing 15m monopole mast and associated compound, and installation of replacement base station which includes 25m lattice sharable mast, 6 no. of antennas, 2no. dishes, 7no. cabinets, etc and ancillary development thereto
Recommendation:	Planning Permission be GRANTED

PROPOSAL

The application is for the removal of existing 15m monopole mast and associated compound, and installation of replacement base station which includes 25m lattice sharable mast, 6 no. of antennas, 2no. dishes, 7no. cabinets, etc and ancillary development thereto.

The application relates to an existing telecommunication compound on the grass verge on Seagry Road, between Upper Seagry to the north and Sutton Benger to the south. The application site is close to the M4 which is to the south. The surrounding area comprises agricultural fields, and it is directly next to a group of trees. There is a bridleway to the west SEAG21. The site is in Flood Zone 1 and in an area at low risk of surface water and ground water flooding.

The application states that the proposed mast is the lowest height in which the Operators can continue to provide the required levels of coverage to the target area. Other options have been considered, but a lattice mast is best suited to rural areas and capable of supporting multiple operators' equipment, helping to reduce the likelihood of additional masts being required in future. The proposed mast would remain galvanised to assimilate the typical sky colour in the UK.

POLICY

Wiltshire Core Strategy (Jan 2015) (WCS)

Core Policy 3 Infrastructure Requirements

Core Policy 51 Landscape

Core Policy 57 Ensuring High Quality Design and Place Shaping

Core Policy 60 Sustainable Transport

Core Policy 61 Transport and New Development

National Planning Policy Framework (Dec 2023) (NPPF)

Para 118 and 119

ISSUES

The main considerations which are considered to be material in the determination of this application:

- Principle

- Impact on the character and appearance of the area
- Highway safety
- Neighbour Amenity

CONSULTATION

Sutton Benger Parish Council: No objection

Seagry Parish Council: No objection

Council Highway Engineer: No highways objection, however, highway structures should be consulted on the plan as a structure will be within 6m of the highway

Highways Structures: No objection subject to the agreed condition

Public Protection: No objection

REPRESENTATIONS

One objection received from Cellnex whom own an electronic communications base station at the application site, which would be removed as part of the proposal. The objections are as follows:

> *The application submitted by Icon Tower Infrastructure Limited (ITIL) is presented to the Council as a replacement for Cellnex UK's base station, although there have been no discussions with us about this proposal. We wish to record therefore that the existing Cellnex UK base station is not currently redundant nor will it be redundant in the foreseeable future. Indeed it has recently been upgraded and it is capable of being further upgraded (when required by EE & 3UK) to deliver the improved 4G and 5G services to local community that forms the central justification for ITIL's proposal.*
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> *The critical point here is that Cellnex UK is an Electronic Communications Code Operator in its own right due to its role as a wholesale provider of shared wireless infrastructure (in the same manner as the applicant). Cellnex UK has security of tenure of the site under provisions within the Electronic Communications Code. Consequently, the Cellnex UK base station will remain at the site and will continue to be available for shared use by MBNL and other organisations should the Council grant consent for ITIL's application.*
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> *Neither ITIL or AP Wireless Ltd (APW) their parent company own or operate any existing apparatus at the site. APW simply manage land and are not responsible for managing any existing infrastructure which is currently used to support important public services at the site, nor is there an actual need to replace this existing infrastructure through different mast ownership.*
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> *In addition, Cellnex UK has permitted development rights to redevelop and upgrade the existing installation at a new location in the immediate vicinity of the existing site or in the wider area. This can be achieved without the requirement for a formal application to your Authority (not require a planning application or application for Prior Approval of the local planning authority). Should your Authority be minded to approve the ITIL proposal then Cellnex UK will exercise its discretion to remove the existing mast and relocate it in the locality in order to protect and maintain the vital public services it has provided from the site for a significant period of time. The planning approval for ITIL would therefore be for a new additional mast rather than a replacement mast.*
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> *This represents an important material consideration in the determination of the current planning application in terms of:*

i) The technical justification for the proposed 25m mast (significantly taller that the existing mast) being significantly weakened with the retention of the Cellnex UK mast either at the current site or relocated under permitted development rights to a new location in the vicinity of the existing site.
ii) The assessment of the visual impact of the proposal on the immediate and wider locality based on two masts at the site.
iii) The application of planning policy and guidance in particular in regard to mastsharing (considered later in this letter).

We also wish to highlight that your Council does not have any planning powers to secure the removal of Cellnex UK's base station should the current planning application be approved. Your Council would not be able to take enforcement action to secure the removal of Cellnex UK's base station under the redundancy provisions of Part 16 of the GPDO or the Electronic Communications Code for the simple reason that it is not redundant. Any attempt to do so would be defended by Cellnex UK. A condition addressing the removal of the existing equipment is unlikely to meet the relevant tests and would be unenforceable given that the applicant does not own or control the existing infrastructure.

The current planning application is also advanced on a purely speculative basis. It is telling that the plans and supporting documentation do not reference any customers that will use their mast. In addition, a generic display of antennas is shown on the elevation plan with no named operator/customers. ITIL assume that the operators on the existing mast (the Cellnex UK mast) will move over to their structure but nowhere is this confirmed. ITIL does not have any control over the Cellnex UK mast. In practice, ITIL has applied for planning permission for a 25m new tower without any named users and where the existing Cellnex UK mast will actually remain at the site or be relocated in the immediate vicinity.

We consider that the application before you should be refused due to the circumstances detailed above and also because it is contrary to the long-standing town planning policy and regulatory objectives of using existing base station infrastructure in order to avoid the unnecessarily proliferation of telecommunications masts. We address this latter point in detail below.

THE TOWN PLANNING POLICY AND REGULATORY FRAMEWORK FOR ELECTRONIC COMMUNICATIONS SITE AND MAST SHARING

The Site Specific Supplementary Information (SSSI) document submitted by ITIL provides a partial and unrepresentative summary of the planning policy framework for the determination of the application. In particular, it underplays the importance of the longstanding town planning policy objectives for electronic communications mast sharing, as set out in the National Planning Policy Framework, local planning policy and the Code of Practice for Wireless Network Development in England.

The SSSI references several sections of the National Planning Policy Framework as part of its justification for the development of a new mast. Paragraph 119 is directly relevant to the determination of the current application and which explains the need to use existing masts where possible:

"119. 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."

Please note that paragraph 115 is now numbered 119 in the December 2023 version of the NPPF. The content of the paragraph remains unchanged.

Similar objectives are outlined in the Code of Practice for Wireless Network Development in England but this guidance is only partially considered. In summary, the NPPF, the Development Plan, and the Code of Best Practice require that:

• Existing telecommunications masts and sites should be shared unless there are justifiable reasons why it is not possible to do so. These reasons should be explained in applications for planning permission and prior approval for new base stations.

• A sequential site selection approach should be followed when submitting applications to develop new base station infrastructure. This first stage of the sequential approach requires an applicant to assess the potential to share existing telecommunications masts and sites, even if that may require some modification to an existing installation. If mast/site sharing is not possible, the second stage requires an applicant to determine whether it is possible to install apparatus on tall buildings or other structures in preference to developing a new ground based mast. Finally, and only if the first two options are unachievable, should sites for new ground based masts be considered.

• To reinforce the importance of the site/mast sharing and the sequential approaches, paragraph 115 of NPPF (now Para 119) explains that the Government expects that new technology, such as 5G, should make use of existing telecommunications infrastructure where possible in order to minimise the need for new masts.

These planning policy objectives are backed with the statutory obligation placed upon operators to share apparatus, where practicable. This is set out under General Condition 3(4) of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003, as amended. As a consequence, the starting point for planning new networks, expanding existing network coverage, or adding a new technology such as 5G, is to use existing electronic communications masts and sites owned by other operators or radio site management companies, such as Cellnex UK.

There is little, if anything, in the application submitted that demonstrates that ITIL has followed these long-standing strands of planning policy guidance. This is evidenced by the information provided in Section 6 of the SSSI. The explanation for discounting the existing mast is justified by claiming it is structurally incapable of supporting the required upgrades (presumably for 5G) and complying with technical and operational requirements. This justification ignores government policies which encourage the upgrade of existing telecommunications infrastructure to accommodate upgraded 5G equipment as referred to previously in this letter. Indeed the replacement of the Cellnex UK mast with 5G capacity can be achieved through exercising outright permitted development rights and without the requirement for a formal application to your Authority (not require a planning application or application for Prior Approval of the local planning authority). We therefore do not see any barrier unlike what is being proposed by ITIL which requires the formal approval of your Authority.

ITIL has not put forward any alternative sites. Para 117 (now para 121) of the NPPF states that applications for a new mast should be supported by the necessary evidence to justify the proposed development and it should also be demonstrated that existing buildings, masts or other structures have been considered. The applicant has not provided such evidence.

It is considered that the application fails to demonstrate that a robust or comprehensive sequential site selection approach was taken prior to the submission of the application. As such, it is considered that there is insufficient information provided to justify the siting of the proposed equipment in this locality or demonstrate that there are no alternative sites available.

ITIL cannot control at all the relocation of services from the Cellnex UK mast to their proposed mast for the reasons expressed or stop Cellnex UK from redeveloping their mast under permitted development rights. The reality of the situation is that this is an application for a speculative new mast in the hope that they can bring across services from the existing well established masts in the immediate and wider area. The application is for a new mast and NPPF is very clear of the sequential approach to network deployment that should be geared around the use of existing

masts where possible. We confirm that an existing mast exists and will be retained to ensure continuation of important existing services for the mobile operators that share our mast.

The approach taken by ITIL with their planning application does not follow the policy and guidance outlined above and, if the application is approved, will result in two masts at the site.

SUMMARY

We consider that the development proposed is contrary to long-standing Government policy and regulatory objectives for the shared use of existing electronic communications masts. It is also contrary to up-to-date Government guidance for alternative site assessments to be undertaken to inform the location of new base station infrastructure and for evidence of the sequential approach followed to be provided with applications for new ground based masts.

The Cellnex UK mast will either remain at the site or be relocated in the vicinity and the current planning application should be assessed on the basis that there will be two masts at the site. Our existing mast is a long-established structure and is fully in accordance with the planning policy and regulatory framework and which benefits from permitted development rights for relocation and redevelopment."

The applicant has submitted a response to these objections, and some additional justification for the proposals which has been published on the planning register.

ASSESSMENT

Principle

Telecommunications facilities is listed as essential infrastructure within the WCS. Whilst CP3 is a policy that relates to infrastructure requirements, there are no policies specific to telecommunications development. Section 10 of the NPPF relates to supporting high quality communications.

Paragraph 118 of the NPPF recognise the need for advanced, high quality and reliable communications infrastructure. Planning decisions should support the expansion of electronic communications networks.

The proposal comprises the replacement of an existing 15m mast with a 25m mast, and associated equipment. The application states that the proposed mast is the lowest height in which the Operators can continue to provide the required levels of coverage to the target area. Other options have been considered, but the applicant considers a lattice mast is best suited to rural areas and capable of supporting multiple operators' equipment, helping to reduce the likelihood of additional masts being required in future. The mast height is determined by features of the surrounding area such as buildings and trees, and the antenna must be able to clear any obstructions so the signals are not blocked. To achieve operator's upgrade requirements the maximum height of the proposed antennae on the mast will be 25m. The proposal to replace the existing telecommunications site with a new higher mast, would upgrade and expand the network in accordance with this policy. Cellnex's objection disputes the need for the new mast and states this is against planning policy. However, the case made by the applicant is that this is required for improved communications infrastructure which would accord with the NPPF.

Paragraph 119 states that the number of radio and electronic communications masts 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. Core Policy 3 of the WCS is of some relevance as it relates to the provision of necessary infrastructure requirements. Supporting text to this policy emphasises the importance of protecting and enhancing appropriate services and facilities including telecommunications equipment. The proposal comprises the redevelopment of an existing installation which is consistent with the Paragraph 119 which seeks to keep the number of sites for such installations to a minimum.

The proposed mast with a height of 25m is required to provide better communications networks within this area. The applicant claims that the height of this mast means that multiple networks can use it, which is likely to reduce the potential number of additional telecommunications sites. The applicant has reiterated that this application is for the removal of a mast, and replacement with another.

An objection has been received from Cellnex whom claim to have ownership of an electronics communications base station at the application site, which the applicant proposes to remove as part of the proposal. The objections are addressed fully in a later section of this report. However, objections relating to the principle are considered below.

Cellnex states that they may use permitted development rights to erect an alternative mast if this application is approved. This intention would conflict with Paragraph 119 to keep communications masts to a minimum. However, it is only possible to consider the application before us and the application is for a replacement mast which would not result in additional masts. Any works under permitted development rights would not need to be considered under a planning application. The potential visual impact of any theoretical permitted development rights or proposal which might be promoted in the future is not, in this instance, a material consideration that should otherwise affect the determination of the current proposals, since any future proposals would be assessed at that time and within the constraints of the general permitted development order.

Paragraph 121 of the NPPF states that applications for electronic communications equipment should be supported by the necessary evidence to justify the proposed development.

121 a) states outcomes of consultations with organisations with an interest in the proposed development. This policy particularly references schools or colleges, aerodromes and technical or military explosives storage areas. It is not located close to any schools/colleges. The submission does not provide any evidence of consultation with any organisations interested in the proposed development.

121 b) requires that for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operations, will not exceed International Commission guidelines on non-ionising radiation protection. The proposal is for a replacement mast and base station so this is relevant in part. The application is accompanied by a declaration of ICNIRP conformity. The proposal is designed to be in full compliance with the requirements of the radio frequency public exposure criteria. Consequently, there would be no conflict with this policy.

121 c) states that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met. This policy is relevant to an extent, however it needs to be considered within the context that the proposal is for the redevelopment of an existing site, rather than a wholly new greenfield site. The existing mast will be removed and replaced with a mast capable of supporting multiple MNOs and future upgrades. There is already the existing access track, access gates, existing timber fence, screening available from trees. The applicant therefore deemed the reuse of this site the most suitable option, as there is existing infrastructure in place, and the fact that it will be a replacement mast.

Paragraph 122 states that LPA's 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.

The principle of a telecommunications mast and site has previously been established at the application site. The proposal is for the replacement of an existing mast and associated equipment. The proposal is considered to be acceptable in principle in accordance with the NPPF and CP3 of the WCS.

Impact on the character and appearance of the area

The new mast would be 25m, which is taller and more prominent than the existing mast at 15m. It is to be finished in grey galvanised steel to assimilate the typical sky colour in the UK. There is an existing meter cabinet, access gate, concrete base, equipment cabin, fence and other equipment. These will be replaced with new cabinets, new meter cabinet, 2.4m high metal mesh fencing and access gates painted green, concrete base, and associated equipment. It would be in the same location as the existing mast and associated equipment, and take up a similar sized ground coverage. The existing timber fencing is proposed to be retained.

The proposed mast is substantially larger than the existing. However it is understood that the size of this will mean that multiple operators will be able to use it, reducing the need for additional masts which could have a greater visual impact that a singular mast. The proposed telecommunications equipment would replace an existing mast and equipment, and is sited in a location with mature trees adjacent to it, which provides some screening. The galvanised colour will mean this blends in as much as possible. The application site is not in a highly sensitive location and it is close to the M4 motorway, which itself represents significant infrastructure with associated lighting, signage and associated built form. In that context, the site is considered this is an appropriate location for a replacement mast and associated telecommunications equipment. Whilst it is not a benefit to the character and appearance of the area, it is not considered to be significantly harmful given the non-sensitive location and screening from trees. It is considered the siting and appearance are acceptable in the context of the need for such development, and the benefits of being able to upgrade the telecommunications equipment would outweigh any minor visual impact. The proposal is considered to be compatible with CP51 and CP57 of the WCS.

Highway Safety

The Council's Highways Engineer was consulted and has no objection. There are no highway safety concerns. The proposal is considered to be acceptable in accordance with CP60 and CP61 of the WCS.

The Highways Structures team were consulted due to the application site being adjacent to a highway. That team raises no objection to the proposal subject to a condition that requires any structures to be designed in accordance with the Design Manual for Roads and Bridges Standard and is approved by a Technical Approval Authority and the Highway Authority.

Neighbour Amenity

The applicant has submitted a form to state the proposal is designed in compliance with the requirements of the radio frequency (RF) public exposure criteria as defined by the International Commission on Non-Ionizing Radiation Protection (ICNIRP), as set out in "ICNIRP Guidelines, for limiting exposure to electromagnetic fields (100KHz to 300GHz)", in all areas permissibly accessible to members of the public. Public Protection have no objection to the proposal.

There are no residential properties in close proximity to the application site. It is not considered that any neighbouring properties would suffer adverse loss of daylight, sunlight or privacy as a result.

Other matters raised in the objection

An objection has been received from Cellnex whom claim to have ownership of an electronics communications base station at the application site, which the applicant proposes to remove as part of the proposal. Some of Cellnex's objections were considered in the section dealing with the principle of development, with other matters considered below.

Cellnex state that this installation is currently in use, has recently been upgraded, and it is capable of being further upgraded. Whilst Cellnex observe that, in that context, the Council would not be able to take enforcement action to secure the removal of the existing Cellnex UK's base station, it is also the case that planning permission runs with the land and the application now under consideration proposes only one mast and associated infrastructure – with the existing and proposed layout plans confirming that it would not be possible for the site to accommodate both masts and their associated infrastructure. Should this new planning permission be implemented, the Council will expect the development to be constructed in accordance with the approved plans, with any potential breach of planning being at risk of enforcement action. In the context of the existing and proposed infrastructure on the site being mutually exclusive, this matter raised by the objector appear to amount to no more than a contractual dispute over who has the right to retain or erect their mast and associated infrastructure. There is no role for the Council to resolve this dispute through the determination of the planning application.

The applicant confirms the proposal is for 1 mast as a replacement and would willing to accept a condition confirming such. However, given the proposal would be approved in accordance with the approved plans that show only one mast with layout of both existing and proposed being mutually exclusive, there is not considered to be any need for such a condition.

The objection also references the sequential test within the code of Practice for Wireless Network Development in England and NPPF. Whilst these provide policy in terms of the siting of sites, Paragraph 121 c) states that for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. The applicant has provided justification that there is an existing mast which will be removed and replaced at the site. It is not a green field site, there is an existing access track, gates, timber fence and screening so this was deemed the most suitable option sequentially. The policies and guidance support the upgrading of existing infrastructure, installation on existing structures and site sharing. The replacement infrastructure at an existing telecommunications site is considered supported by the policy and guidance.

The applicant has responded to the above objections and stated that these claims are not relevant due to it being commercial competition. This response has been published on the online planning register.

Paragraph 122 of the NPPF states that LPAs must determine applications on planning grounds only and that they should not seek to prevent competition between different operators or question the need for an electronic communications system. It would seem that the objector is inviting the Council to refuse planning permission precisely so as to stifle the operation of the market. For that reason, there is nothing raised which would change the conclusions reached elsewhere in this report.

CONCLUSION

The proposed replacement mast and associated telecommunications equipment are considered acceptable in principle; and are acceptable in design terms. There would be no harm to the character and appearance of the area, no harm to neighbour amenity and no highway safety issues. With no material considerations indicating otherwise, the application is recommended for approval in accordance with the NPPF (2023) and Wiltshire Core Strategy (Jan 2015) CP3, CP51, CP57, CP60 and CP61.

RECOMMENDATION: That Planning Permission be GRANTED subject to the following conditions:

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans as received 13/10/23:

Site Location Maps 100 A
Existing Site Layout 200 A
Proposed Site Layout 201 A
Existing Site Elevation 300 A
Proposed Site Elevation 301 A

REASON: For the avoidance of doubt and in the interests of proper planning.

3. No structure, where the design, construction, maintenance or demolition of that structure may affect the safety of the highway, highway structure, or that of the highway user, shall be constructed unless (a) the design of that structure has been undertaken in accordance with the Design Manual for Roads & Bridges Standard CG300 (Technical Approval of Highway Structures), (b) is approved by a competent Technical Approval Authority and (c) is submitted to and approved in writing by the Highway Authority.

REASON: To ensure the continued safe operation of the public highway.