

**Our ref:** COM-0026136

**Date:** 25<sup>th</sup> January 2024

The Chief Planning Officer  
Cumberland Council (Copeland Area)  
The Market Hall  
Market Place,  
Whitehaven  
CA28 7JG

Dear Sir

**Cellnex UK and Vodafone Ltd and Telefónica UK Ltd**

**Submission of an Application for Planning Permission**

**Proposed Additions to Existing Base Station installation at  
Whitehaven ATE, Catherine Street, Whitehaven, Cumbria CA28 7PA**

On behalf of Vodafone Ltd and Telefónica UK Ltd, in conjunction with Cornerstone, we submit herewith an application for planning permission for the installation of a 5G mobile base station at the above site.

You may be aware that The Court of Appeal decision - Mawbey, R (On the Application Of) & Orsv Cornerstone Telecommunications Infrastructure Ltd. [2019] EWCA Civ 1016 (17 June 2019) – confirmed the meaning of a “mast” for the purposes of rooftop permitted development within Part 16. Where the installation of antennas onto a building necessitates a vertical ‘main’ support pole physically attached to the rooftop to support antennas, then the pole itself must be treated as a rooftop mast for the purposes of Part 16. So, for the purposes of Part 16, a rooftop mast can be pole mounted antennas directly from a rooftop or face of the building, or a more conventional support structure like a rooftop stub mast.

The recent Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 has subsequently relaxed permitted rights within Part 16 for rooftop masts in all their forms. In this case, the proposed ‘mast’ exceeds the particular limitations of Part 16 and hence subject to this application.

We enclose the following:

- i. The completed planning application forms, including the relevant landownership and agricultural holdings certificates
- ii. An O.S. site plan scale 1:1250 showing the red line area.
- iii. Drawing nos. 163496-22-110,111, 160, 161, 162 and 163 MD009

- iv. Electronic payment of £642 in respect of the appropriate fee.
- v. 5G Technical Support document
- vi. National Policy – Delivering Ultra Fast Broadband Mobile Connectivity
- vii. 5G – Helping tackle climate change document
- viii. A certificate of ICNIRP compliance
- ix. 5G Health and Safety document

### **The Proposed Development**

The operators already provide coverage from an existing base station at this site, but have a requirement to install the 5G electronic communications apparatus referred to in this letter and shown in the submitted drawings.

The deployment of 5G will utilise the Mobile Network Operators (MNOs) existing 3G and 4G networks such as the base station already existing at the application site. As such, the application site is likely to carry different mobile connectivity services in parallel, with high data uses operating through the new 5G higher capacity network apparatus subject of this application. As a consequence, this particular technical requirement is not one that can be met on an alternative site.

There is significant UK Government support for the delivery of 5G, particularly as this new connectivity will be a step change from earlier generations of mobile connectivity and will be critical to economic growth and sustainable communities. We explain this in more detail in the document '**National Policy – Delivering Ultra Fast Mobile Connectivity**' which supports this application. In addition, modern connectivity, such as 5G, will be essential to help the Government meet its wider sustainability and climate change targets and we explain this in more detail in our accompanying document '**5G – Helping tackle climate change**'.

The amount of development, its design and the location of the apparatus at this existing electronic communications site has been guided by the technical and operational requirements of the operators 5G system having proper regard to minimise appearance.

Unlike earlier generations of mobile connectivity, 5G has more significant technical and operational requirements and this has implications on the amount, height, position and design of the new base station apparatus. To help explain this important detail, we have set this out in more detail in our accompanying '**5G Technical Support**' document which should be carefully considered.

Having regard to the nature and appearance of the structure as a whole, the proposed works should have no adverse impact, or no more than a minimal adverse impact, on its appearance. The 5G electronic communications apparatus proposed should not materially affect the overall appearance of the existing site to any noticeable or adverse degree from any public vantage points.

## **The Need to Conserve the Historic Environment**

In this case the site falls within the Whitehaven Conservation Area and as such we provide a Heritage Statement in support.

### Heritage Statement

The building on which the existing installation is sited is significantly higher than the buildings around it and results in the installation being out of the natural eyeline when viewed from street level. The number of antennas is not being increased, however the new antennas are being relocated due to the existing support poles not being robust enough to support them. This has the added effect of concentrating the antennas in three locations on the building.

The general presumption in favour of allowing development for modern communications, and the special operational and technical factors that require siting of base stations within the Conservation Area, is balanced by the need to conserve or enhance their heritage qualities.

However, there is now far greater emphasis that visual impact should not override significant radio planning requirements to achieve mobile coverage to a particular area, particularly with the need to support the massively growing and intensifying demand for mobile communications across the UK. Indeed, in terms of looking to meet operational needs, the NPPF now applies a reduced policy test compared to previous guidance. This helps clarify that an operator is only required to satisfy the normal test of acceptability having regard to all material planning circumstances, rather than looking for the 'optimum' solution as required under the former PPG8.

In balancing these requirements, the starting point for planning new networks or the expansion of existing networks is to use existing electronic communications sites owned by other operators or radio site management companies, such as Cellnex UK. This policy objective is backed with the statutory obligation placed upon operators to share apparatus, where practicable out under General Condition 3(4) of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003, as amended.

In this instance, the installation of apparatus at this existing site owned or managed by Cellnex UK, where there are existing operations aligns with this longstanding policy.

Nonetheless, any potential harm the apparatus would cause to the designated heritage asset must be assessed, as set out in NPPF paragraph 201 and how to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. In this case, all reasonable steps have been taken, through careful siting at an existing Cellnex UK site, to moderate the visual in regard to technical and operational factors. Accordingly, the proposal looks to conserve the heritage asset.

In so far as there may be any perceived harm, the development proposal will have less than substantial harm to the significance of a designated heritage asset and as such, this harm has to be weighed against the public benefits of the proposal (paragraph 208). In this respect the base station is required as part of a national 5G mobile communications network, necessary to extend and improve mobile connectivity to the local area and has wider public interests. As

explained, the target coverage area falls within the designated area and the special operational and technical requirements necessitate siting of new apparatus within it.

### **Amount, Design, Layout and Scale of the Development**

The scale, layout and design of the development has been guided by the special 5G technical and operational factors affecting the need to provide coverage to the local area, having regard to the need to minimise visual impact. With regard to the main component elements of the development proposed:

Kept in proportion to the building or structure

The scale of the apparatus is not large and when installed should look proportionate to the structure as a whole. The antennas are similar to the existing electronic communications apparatus installed on the building. They will therefore be seen in the context of this apparatus and will not appear as incongruous or jarring additions to the building or look out of place within the heritage area.

Respect architectural style

Within the severe technical constraints, the apparatus shall be installed in a manner that respects architectural style. Architecture and its style are about function as well as pure design. The telephone exchange, although within the heritage asset, was designed to provide local connections to the electronic communications networks and has a utilitarian appearance, more in contrast with other heritage buildings within the area. Mobile phone base stations are a more modern wireless form of telephone exchange, but still require many of the operational attributes present. The development proposed therefore fully reflects the function of the exchange and the apparatus proposed can be viewed as an evolutionary requirement. In similar fashion, for example, a railway station, i.e. development required for another form of communications, which now may form part of our built heritage still has to evolve in accordance with new technology and safety requirements. In turn these translate into an array of structures that were often never envisaged when first built and now common within urban environments including those that may be designated for their heritage interest.

Have minimal impact above the roofline commensurate with technical constraints

The apparatus that projects above the roofline has been kept to the minimum having regard to the technical parameters and design considerations explained above. The impact on the apparatus remains contained and new views towards this apparatus from elsewhere within the Conservation Area remain limited

Not be detrimental to views and general skyline

A combination of design, topography and natural and manmade features should help keep any perceived changes to views and the skyline to within acceptable limits. Indeed, within the context of this urban location the attention of the casual observer is likely to remain be focussed more upon the streetscape.

Avoid creating clutter

The apparatus should not look unduly cluttered and insofar as it might be visible it will be viewed as operational electronic communications equipment compatible and now expected on a building designed and constructed exclusively for electronic communications purposes.

Use clean lines and maintain symmetry

The apparatus has clean lines and has been sited to maintain symmetry with both the building and its different elements.

Antenna Array

The numbers of antennas and dishes and their size has been kept to the minimum necessary to provide 5G coverage and to link this site back into the operator's network. The design of these features is very much driven by operational and technical factors.

Equipment Cabinets

The number of radio equipment cabinets and their size has been limited to what is required to meet the operator's current and foreseeable network requirements. The location and design of the equipment cabinets, and the electronic communications equipment housed within them, reflects their functionality and the technical and operational requirement to be in reasonable proximity to the antenna systems and dishes that they support. This avoids exceptionally large runs of feeder cables and associated supporting trays, and the subsequent loss of signals.

## **Access**

The apparatus proposed will not bring about any additional requirements with regard to access. Access to this operational site will, therefore, remain the same as the current arrangements

In accordance with all relevant health and safety regulations and guidelines, access to the site is restricted to authorised personnel and access for maintaining or servicing all the apparatus can only be carried out by properly trained and qualified staff. Such routine operations will continue to be carried out roughly once a quarter, with no requirement to increase this arising out of the development proposed. The application does not therefore give rise to any public issues associated with access.

As the apparatus proposed will lead to significant improvements to a public service provided in the local area, the application merits support and accords in all respects with national policy as set out in our supporting document '**National Policy – Delivering Ultra Fast Mobile Connectivity**', especially the National Planning Policy Framework. The proposal looks to meet all relevant local policy, particularly Policy CO1PO of the emerging Copeland Local Plan:

*'Telecommunications and Digital Connectivity The Council will support the continued provision of infrastructure that extends and improves digital connectivity across all parts of Copeland, particularly where it provides access to 5G technology. This is particularly important given the rural geography of the*

*Borough and the need to support economic growth and social wellbeing. New development will be supported where it enables the enhancement of Copeland's digital infrastructure without harming the existing street scene or amenity. Adverse impacts on the successful functioning of existing digital infrastructure should be avoided or mitigated where possible. This will be subject to appropriate safeguarding to protect sensitive sites, including those protected for their biodiversity value, important landscapes and heritage assets.'*

This letter and the enclosures also provide due notification, as may be required, under the relevant conditions of the Electronic Communications Code (Conditions and Restrictions) Regulations 2003, as amended. In particular, you are given notice of the intention to install the electronic communications apparatus described in more detail in the application documentation (including the scale drawings) and to be located as shown on the application plans. No fee is required for this separate statutory notification.

### **Health and Safety**

In support of the application, we include a separate document called '**5G Health and Safety**' which sets out in more detail the associated health and safety considerations. Every installation on a site owned or managed by Cellnex UK will be compliant with international standards adopted by the UK Government. A certificate confirming compliance with the relevant ICNIRP guidelines on public exposure has been supplied with this application.

The ICNIRP guidelines seek to protect against the well-known thermal effects of radio emissions and include a significant precautionary factor. These guidelines apply to all forms of electronic communications and mobile technology is one of the lowest powered of these.

National planning policy remains clear, provided an application is certified as ICNIRP compliant, local planning authorities should not seek to effectively set different guidelines through the refusal of planning permission.

We would be willing to meet to discuss the merits of the application, or to assist with any visits of the site and surrounding area, if this is beneficial to the determination of the application.

As the proposal entails the development of infrastructure necessary for the delivery of vital 5G public services, we ask that you progress the determination of this application in an expeditious manner and request that you use your delegated powers if available.

We trust everything is in order, but please contact me if you require any additional information or clarification in relation to the proposed development.

Yours faithfully

**Nathan Pratt**  
**Senior Asset Surveyor**  
**Novo Technologies for and behalf of Cellnex UK Limited**