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Our ref: KEN6/1 (SAG)
Your ref: DM/25/1495

30 July 2025

Attn. Hamish Evans, Planning officer
Hamish.Evans@midsussex.gov.uk
planninginfo@midsussex.gov.uk

BY EMAIL ONLY

Dear Council,

LAND ADJ. TO ROCKY LANE, SANDROCKS, ANSTY AND STAPLEFORD RH16 4TW
Phone mast application ref: DM/25/1495

- 1 We act for Mr Joe Kennedy ("our client") who lives in the immediate vicinity of the proposed development, on Rocky Drive. He **objects** to the application on the basis set out below.

Decision

- 2 The Officer Scheme of Delegation is set out in Annex A of Part 3 of the Council's constitution and stipulates¹ those matters which should be referred to Committee for decision. This includes:

"A request being received, within the allotted representation period from any Member of the Council for the application to be referred to the Committee for determination. Member requests for a referral to Committee must be discussed with officers and confirmed in writing (to include e- mail) have to be supported by another member and have to have planning reasons."

- 3 We understand Cllr Anstey², Cllrs Pascoe and Bates³ all emailed officers requesting call-in, setting out their planning concerns. Officers made attempts to justify the application against planning policy in their responses, but the call-in request was not, as far as we are aware, either answered or dismissed. Indeed, Hamish Evans responded to Cllr Avery on 8 July as follows:

"Thank you for the below emails and I can confirm receipt of them. I will let you know once the call-in has been confirmed. I am not able to advise which committee the application would be determined at yet as there are a number of issues outstanding."

This is in the context of significant local opinion against the development: over 130 objection representations were submitted.

¹ At p39

² Consultation response of Ansty and Staplefield Parish Council 15 July 2025

³ Email from Cllr Pascoe to Gary Marsh 7 July 2025

- 4 We ask the Council to confirm by return that this matter will be decided by committee, as requested by the councillors. A decision that has not been made in accordance with the Council's constitution will *de facto* be unlawful, and our client reserves his position on that point.

Policy Context

- 5 We agree the tenor of policy in the NPPF is generally in favour of telecoms development:

*"Planning policies and decisions should support the expansion of electronic communications networks"*⁴

and further: the Council should not *"question the need for an electronic communications system"*⁵.

- 6 However, the situation is rather more nuanced – indeed, were it not, there would be no point in requiring the Council to evaluate the application to come to a decision. The weight in favour of telecoms development exists in balance with other factors:

*"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."*⁶

And further:

*"Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development"*⁷.

- 7 This is supported by the Code of Practice for Wireless Network Development in England 2022:

*"sharing sites should always be considered as this reduces the total number of sites/masts required for the network and also minimises the visual intrusion caused by wireless infrastructure"*⁸

and also:

"Planning authorities should consider these issues and consider the need for a site within a limited search area alongside the public benefit of improved connectivity. In general, it should not, therefore, be appropriate for planning authorities to seek wider evidence of alternative sites (beyond that required by

⁴ NPPF para 119

⁵ NPPF para 123

⁶ NPPF Para 120

⁷ Ibid para 122

⁸ Code para 25

the NPPF), unless they consider the proposed development is unacceptable having regard to the relevant material planning considerations”⁹

- 8 Looking at both the NPPF and Code together, therefore, the required approach is to show a sequential process where a new unshared mast, in a greenfield location, is the very last resort. This is entirely in accord with the Council's own local plan policy DP23, which requires the choice of location to minimise impact, preferring use of existing sites.¹⁰ Therefore whilst we would agree that policy will not allow questioning of **general** need for telecoms development, the Council is required to question need **in that particular location**; the applicant must show it has followed the sequential approach, that there is no other option. If they cannot do so, the application should be refused, and planning policy supports that approach.

Evaluation of Application in Policy Context

- 9 The applicant's Technical Statement purports to show the sequential approach has been followed, but there are critical omissions undermining its weight. It does not include the existing Cellnex site (installation on pylon 4VM12 at Clearwaters Lane) which, in relation to the applicant's objection to a competitor application, they stated could provide good coverage.¹¹
- 10 In a previous application¹² the site selection involved comparison of 9 sites. In relation to that application, Cellnex objected in part because it should (they argued) include pylon sites¹³. In the current application, however, only 4 sites are compared, and no pylon sites.
- 11 In short, the sequential assessment is fundamentally flawed and incomplete.
- 12 The Technical Statement also includes a map notated as 'Annexe A'(see Fig 1 below) to support the statement that there is poor signal over the stretch of railway line that will be covered by the new mast. This is inaccurate, as other sources (eg Ofcom, nPerf) show good coverage: see Fig 2 below. Purple indicates good coverage.

⁹ Ibid Para 27

¹⁰ MSDC Development Plan 2014-31 (adopted 2018)

¹¹ application ref. DM/24/0880, submitted last year by industry competitor ICON Tower (ITIL). This letter states that the equipment mounted to the pylon by Clearwaters Lane is owned and operated by CCSL, and capable of providing signal all the way to Haywards Heath

¹² By ITIL ref DM/24/0880

¹³ Letter from ITIL agent dated 23 May 2024

Annexe A – Overview of Coverage to the Brighton Main Line

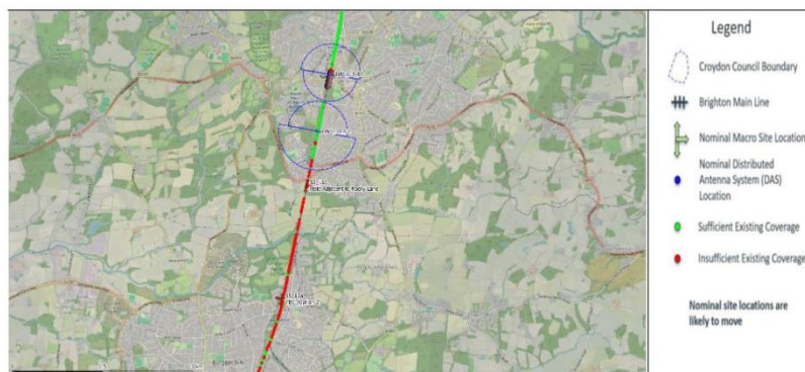


Fig. 1

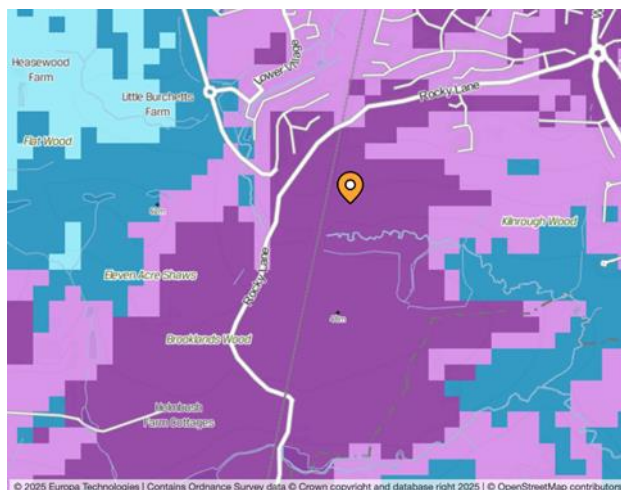


Fig. 2

Landscape and Visual Impact

- 13 The application is for a 22.5m mast. In fact, scaling off from the applicant's elevation drawing¹⁴ it is 23.8m tall; including aerials it will be 25m. That is twice the height of nearby mature trees.
- 14 We note that despite the remarkable height, well above treeline, there has been no landscape and visual impact appraisal submitted by the applicant. We note the submission of a photo montage¹⁵ but it is unclear where these were taken or how they reflect topography (which may mask or accentuate impact at different points). None of those photos were taken from the viewpoint of nearby residents, or it would seem, from PROWs. It cannot be called a landscape and visual impact assessment but rather, marketing puff. We imagine this is because the harm is obvious, and mitigation impossible. However, given the site is c 4 miles from the boundary of the High Weald National Landscape (formerly AONB) the mast will be visible from a protected landscape. Indeed, it could be visible over 11 miles away.¹⁶ Moreover, there is an

¹⁴ Cellnex S5-11-00-003-MD004 Rev 4 dated 6 May 2025

¹⁵ NPA Visuals

¹⁶ Terry Pepper: "Visibility of Objects at a Distance" 2003

aggregation of around 10 masts in the immediate area, so a cumulative visual impact should be assessed. The Council is under a duty under s85(1A) Countryside & Rights of Way Act 2000¹⁷. The amended duty has been held recently in the High Court to impose an active duty to promote the purposes of the National Landscape.¹⁸ That includes impacts on its setting and viewpoints.

- 15 Turning from the macro to the micro, the visual impact on residents living only 70m from the site will be a significant harm. This alone has justified refusal of similar schemes, for example in Doncaster where the Inspector dismissed an appeal against a prior approval refusal on the basis the mast, being taller than surrounding trees, was “highly visible” which, combined with the impact of similar masts within the district rendered the cumulative impact unacceptable.¹⁹

Impact on Veteran Tree

- 16 We note the tree officer’s concerns²⁰ that the making of the access will damage the roots of the nearby veteran tree. This concern remains unresolved – indeed, it is hard to see how it can be resolved whilst protecting the tree. In a similar telecoms case where due consideration was not given to such protections, the permission was quashed.²¹

Safety

- 17 We note the Declaration of conformity with the Public RF Exposure Guidelines²² (superseding ICNIRP), but would highlight this highly unusual – indeed, unique – design of this mast, in that several frequencies will be accommodated by aerials pointed downwards (as opposed to horizontally) to the railway, but also houses a mere 70 metres away (not 110m, as stated by the applicant). We would support the concerns in Professor Thornhill’s objection, that this design is outside the remit the PRFEG was designed to safeguard.

Highways

- 18 In the context of the creation of a new access from Rocky Lane, a 40mph highway makes WSCC Highways’ consultation response²³ highly relevant. They had two concerns: (1) that drawings be submitted showing visibility splays of 2.4m x 120m in both directions; and (2) that the applicant sets back the access gate for road safety reasons.
- 19 On 15 July new highway drawings were uploaded to the Portal,²⁴ dated 2 October 2024 (before the application was submitted) shows 120m visibility splay but only in one direction. No mention has been made of the access gate being set back. On both counts, therefore, the highway concerns remain, and the application can be refused on highway safety grounds alone.²⁵

¹⁷ As amended by s245 Levelling Up and Regeneration Act 2023 (“LURA”).

¹⁸ R. (CPRE Kent Branch) v SSHCLG [2025] EWHC 1781 (Admin), per Mould J

¹⁹ APP/F4410/W/23/3326884, decision letter dated 2 February 2024

²⁰ Emma Rivett consultation response 17 July 2025

²¹ Murtagh v SSLUHC [2022] EWHC 2991 (Admin)

²² Dated 9 June 2025

²³ Kyran Schneider, WSCC Highways 4 July 2025

²⁴ HJCE drawing ref PO2

²⁵ NPPF para 116

Gaps in information

- 20 We have noted above gaps in information and incorrect data.
- 21 It is critically important to ensure that the correct and complete information is set out for any application and this is recognised in the NPPF: "The right information is crucial to good decision-making"²⁶
- 22 On the basis of what the Council has before it, a decision to approve cannot safely be made. Furthermore, we reserve our client's right to make further comments if/when more information is submitted.

Conclusion

- 23 For the reasons set out above, we submit the development is contrary to national and local policy. The supposed public benefit will be experienced by a narrow band of the population: passengers on trains gaining 26 seconds of coverage from a ground mounted mast. The visual impact on local residents, sightlines from the High Weald NL, and the exacerbation of safety issues on the highway, are all significant harms which have not been properly assessed by the applicant. These omissions, together with the inaccuracies and gaps set out above render it impossible to approve safely. Our client reserves his position on that point.
- 24 Accordingly, this application should be **refused**.

Yours faithfully



RICHARD BUXTON SOLICITORS

²⁶ NPPF para 44