

APPLICANT: Cellnex UK Ltd Crawley Court, Winchester , SO21 2QA

AGENT: Sam Wismayer WHP Telecoms Limited, 1a Station Court, Station Road, Guiseley, Leeds, LS20 8EY

Rooftop at 88, Windsor Road, Penarth

Proposed upgrade to existing rooftop telecommunications equipment

SITE AND CONTEXT

The application site comprises of a large four storey mixed use building at No.88 Windsor Road, which is within the residential settlement boundary of Penarth. The site does not lie within the Penarth Conservation Area and is situated just outside of the Primary Shopping Area of Penarth District Centre.

The area is a mix of residential and commercial properties, with the police station building opposite and the railway line running along the rear boundary of the site. There is a hard surfaced forecourt to the front and a ramp to the side for vehicles to access the first floor. The building was previously used to accommodate a car showroom and has now been converted to a gym at ground floor and residential units above.

An extract of the site location plan can be viewed below:



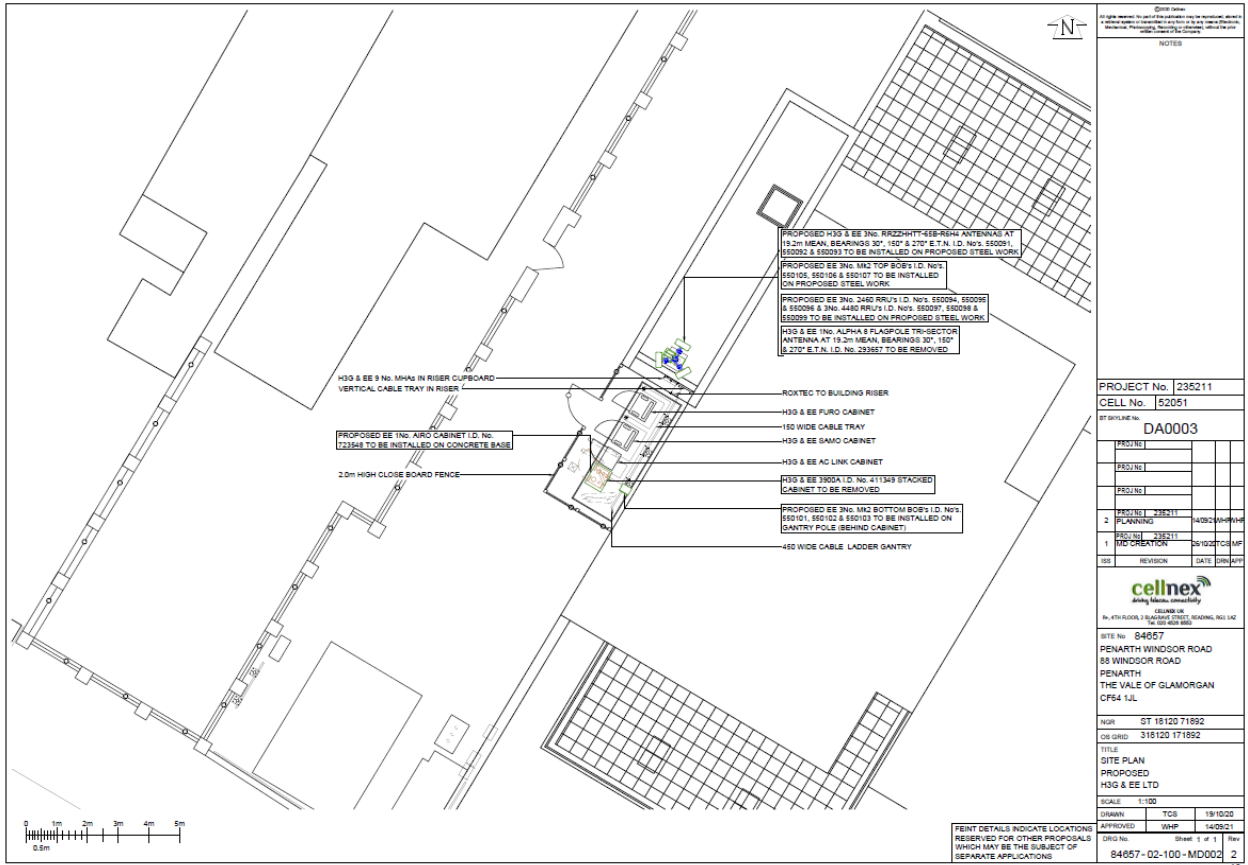
DESCRIPTION OF DEVELOPMENT

This Prior Notification application is made by Cellnex UK Ltd and relates to prior notification for the proposed upgrade to existing rooftop telecommunications equipment on the rooftop of the above site and within an existing ground floor enclosure.

The application relates to the:

- The installation / replacement of a rooftop array of freestanding Antennas and cabinets
- The removal of existing rooftop mounted antennas and the associated flagpole shrouding.
- The removal of a radio equipment housing to be replaced by an upgraded cabinet.
- The installation of cabling and associated development.

Extracts of the plans can be viewed below:



2015/00738/FUL, Address: 88, Windsor Road, Penarth, Proposal: The removal of the existing antenna mounted on a flagpole, the installation of two panel antennas, the swap out on a like for like basis of the existing face mounted antenna, the installation of a samo cabinet, measuring 750 X 600 X 1980 mm, located at ground level and associated development, Decision: Approved

REPORT

Planning Policies and Guidance

Local Development Plan:

The Vale of Glamorgan Adopted Local Development Plan 2011-2026 forms the local authority level tier of the development plan framework. The LDP was formally adopted by the Council on 28 June 2017, and within which the following policies are of relevance:

Strategic Policies:

POLICY SP1 – Delivering the Strategy

Managing Development Policies:

POLICY MD2 - Design of New Development

POLICY MD5 - Development within Settlement Boundaries

In addition to the Adopted LDP the following policy, guidance and documentation supports the relevant LDP policies.

Future Wales: The National Plan 2040:

Future Wales – the National Plan 2040 is the national development plan and is of relevance to the determination of this planning application. Future Wales provides a strategic direction for all scales of planning and sets out policies and key issues to be considered in the planning decision making process.

Planning Policy Wales:

National planning policy in the form of Planning Policy Wales (Edition 11, 2021) (PPW) is of relevance to the determination of this application.

The primary objective of PPW is to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales.

Technical Advice Notes:

The Welsh Government has provided additional guidance in the form of Technical Advice Notes. The following are of relevance:

- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 19 – Telecommunications (2002)

Welsh National Marine Plan:

National marine planning policy in the form of the Welsh National Marine Plan (2019) (WNMP) is of relevance to the determination of this application. The primary objective of WNMP is to ensure that the planning system contributes towards the delivery of sustainable development and contributes to the Wales well-being goals within the Marine Plan Area for Wales.

Other relevant evidence or policy guidance:

- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty and the "sustainable development principle", as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

Issues

This application has been submitted under the procedures set out in Schedule 2, Part 24 of the Town and Country Planning (General Permitted Development) Order 1995, as amended by the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019.

Part 24 of the above Order relates to Development by Telecommunications Code Systems Operators (Wales). Class A states that the following is permitted development:

- A. Development by or on behalf of a telecommunications code system operator for the purpose of the operator's telecommunication system in, or, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of:
 - (a) the installation, alteration or replacement of any telecommunication apparatus,
 - (b) the use of land in an emergency for a period not exceeding six months to station and operate moveable telecommunication apparatus required for the replacement of unserviceable telecommunication apparatus, including the provision of moveable structures on the land for the purposes of that use, or
 - (c) development ancillary to radio equipment housing.

The schedule also sets out a number of criteria under which development is not permitted.

Development is not permitted by Class A(a) if—

(a) in the case of the installation of ground-based apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level; **Condition Met**

(b) in the case of the alteration or replacement of ground-based apparatus (other than a mast), the apparatus excluding any antenna, would when altered or replaced exceed—

- (i) the height of the existing apparatus, or
 - (ii) a height of 15 metres above ground level,
- whichever is the greater; **Condition Met**

(c) in the case of the installation of a ground-based mast, the mast, excluding any antenna, would exceed a height of— **Not relevant to this case.**

- (i) 20 metres above ground level where the mast is on protected land; or
- (ii) 25 metres above ground level where the mast is on unprotected land;

(d) in the case of the alteration or replacement of a ground-based mast on protected land, the mast, excluding any antenna, would when altered or replaced exceed— **Not relevant to this case.**

- (i) the height of the existing mast, or
 - (ii) a height of 20 metres above ground level,
- whichever is the greater;

(e) in the case of the alteration or replacement of a ground-based mast on unprotected land, the mast, excluding any antenna, would when altered or replaced exceed— **Not relevant to this case.**

- (i) the height of the existing mast, or
 - (ii) a height of 25 metres above ground level,
- whichever is the greater;

(f) in the case of the alteration or replacement of a ground-based mast— **Not relevant to this case.**

(i) where the mast is on article 1(5) land or on unprotected land, the mast would when altered or replaced exceed its original width(16) at any given height by more than one metre or one third whichever is the greater;

(ii) where the mast is on land which is or is within a site of special scientific interest, the mast would when altered or replaced exceed its original width at any given height;

(g) in the case of the installation, alteration or replacement of apparatus on a building or other structure— **Relevant**

- (i) the height of the apparatus (taken by itself) would exceed—
 - (aa) 15 metres, where it is installed, or is to be installed, on a building or other structure which is 30 metres or more in height; or

(bb)10 metres in any other case; **Condition Met**

(ii)the highest part of the apparatus when installed, altered or replaced would exceed the height of the highest part of the building or structure by more than—
(aa)10 metres, in the case of a building or structure which is 30 metres or more in height;

(bb)8 metres, in the case of a building or structure which is more than 15 metres but less than 30 metres in height; or

(cc)6 metres in any other case; **Condition Met**

(h)in the case of the installation, alteration or replacement of apparatus (other than an antenna) on a mast, the height of the mast would, when the apparatus was installed, altered or replaced, exceed any relevant height limit specified in respect of apparatus in paragraphs (c) to (g) and for the purposes of applying the limit specified in paragraph

(g)(i), the words “(taken by itself)” are to be omitted; **Not Applicable**

(i)in the case of the installation, alteration or replacement of any apparatus other than—

(i)a mast,

(ii)an antenna,

(iii)a public call box,

(iv)any apparatus which does not project above the level of the surface of the ground, or

(v)radio equipment housing,

the ground or base area of the structure would exceed 1.5 square metres; **Not Applicable**

(j)in the case of the installation, alteration or replacement of an antenna on a building or structure (other than a mast) which is less than 15 metres in height, on a mast located on such a building or structure, or, where the antenna is to be located below a height of 15 metres above ground level, on a building or structure (other than a mast) which is 15 metres or more in height— **Not Applicable**

(i)in the case of antennas other than small cell antennas, the antenna is to be located on a wall or roof slope facing a highway which is within 20 metres of the building or structure on which the antenna is to be located; **Not Applicable**

(ii)in the case of dish antennas, the size of any dish would exceed 0.9 metres or the aggregate size of all of the dishes on the building, structure or mast would exceed 4.5 metres, when measured in any dimension; **Not Applicable**

(iii)in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of one small antenna or a maximum of two small cell antennas) would result in the presence on the building or structure of— **Not Applicable**

(aa)more than three antenna systems; or

(bb)any antenna system operated by more than three electronic communications code operators; or

(iv)the building or structure is a listed building or a scheduled monument; **Not Applicable**

(k)in the case of the installation, alteration or replacement of an antenna on a building or structure (other than a mast) which is 15 metres or more in height, or on a mast located on such a building or structure, where the antenna is located at a height of 15 metres or above, measured from ground level— **Not Applicable**

(i)in the case of dish antennas, the size of any dish would exceed 1.3 metres or the aggregate size of all of the dishes on the building, structure or mast would exceed 10 metres, when measured in any dimension;

(ii)in the case of antennas other than dish antennas, the development (other than the installation, alteration or replacement of a maximum of two small antennas or two small cell antennas) would result in the presence on the building or structure of—

(aa)more than five antenna systems; or

(bb)any antenna system operated by more than three electronic communications code operators; or

(iii)the building or structure is a listed building or a scheduled monument;

(l)in the case of development on any protected land it would consist of—

(i)the installation or alteration of an antenna or of any apparatus which includes or is intended for the support of such an antenna; or

(ii)the replacement of such an antenna or such apparatus by an antenna or apparatus which differs from that which is being replaced, **Condition met**

The proposals, as outlined in the ‘description of development’ section above, meet the relevant requirements and are considered to be permitted development.

A.3(3) of the Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019 stipulates that “*before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to the siting and appearance of the development*”.

This application seeks a formal determination as to whether the prior approval of the Local Planning Authority will be required in relation to siting and appearance of the proposed development.

The application site is located within the Penarth Settlement boundary but outside the Conservation Area. The application site relates to residential flats with a ground floor gym on the site of a former car showroom. The site planning history notes that there have been a number of applications for similar structures on the building. The proposed mast would be set back from the road and equipment located on the side walkway against the building. Some of the proposed equipment would undoubtedly be visible from the adopted highway and wider view. However, given the slim profile of the pole and set back along the roof the rooftop the works will not unacceptably affect the character or visual amenities of the surrounding area. The ground floor units are currently enclosed by fencing and as such any replacement units are not considered to be harmful visually.

Consequently, the prior approval of the Local Planning Authority would not be required for the siting and appearance of the proposal.

CONCLUSION

It is considered that the development proposed falls within the terms and conditions of Part 24 Development by Telecommunications Code Systems Operators (Wales) contained in The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019, and prior approval for the siting and appearance of the proposals is not required.

RECOMMENDATION

DOES NOT REQUIRE the prior approval of the Local Planning Authority.

1. DOES NOT REQUIRE the prior approval of the Local Planning Authority:

The development proposed falls within the terms and conditions of Part 24 Development by Telecommunications Code Systems Operators (Wales) contained in The Town and Country Planning (General Permitted Development) (Amendment) (Wales) Order 2019, and prior approval is not required.

NOTE:

Please note that this consent is specific to the plans and particulars approved as part of the application. Any departure from the approved plans will constitute unauthorised development and may be liable to enforcement action. You (or any subsequent developer) should advise the Council of any actual or proposed variations from the approved plans immediately so that you can be advised how to best resolve the matter.

In addition, any conditions that the Council has imposed on this consent will be listed above and should be read carefully. It is your (or any subsequent developers) responsibility to ensure that the terms of all conditions are met in full at the appropriate time (as outlined in the specific condition).

The commencement of development without firstly meeting in full the terms of any conditions that require the submission of details prior to the commencement of development will constitute unauthorised development. This will necessitate the submission of a further application to retain the unauthorised development and may render you liable to formal enforcement action.

Failure on the part of the developer to observe the requirements of any other conditions could result in the Council pursuing formal enforcement action in the form of a Breach of Condition Notice.