



MEETING: PLANNING (URGENT REFERRALS) COMMITTEE
DATE: Wednesday 10th August, 2011
TIME: 5.30 pm
VENUE: Town Hall, Bootle

Member

Councillor

Tweed (Chair)
M. Fearn
Griffiths

COMMITTEE OFFICER: Ian Aylward-Barton Committee Clerk
Telephone: 0151 934 2788 / 2067
Fax: 0151 934 2034
E-mail: ian.barton@sefton.gov. or
olaf.hansen@sefton.gov.uk

The Cabinet is responsible for making what are known as Key Decisions, which will be notified on the Forward Plan. Items marked with an * on the agenda involve Key Decisions

A key decision, as defined in the Council's Constitution, is: -

- any Executive decision that is not in the Annual Revenue Budget and Capital Programme approved by the Council and which requires a gross budget expenditure, saving or virement of more than £100,000 or more than 2% of a Departmental budget, whichever is the greater
- any Executive decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

A G E N D A

Items marked with an * involve key decisions

<u>Item No.</u>	<u>Subject/Author(s)</u>	<u>Wards Affected</u>
1.	Apologies for Absence	
2.	Declarations of Interest Members and Officers are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda in accordance with the relevant Code of Conduct.	
3.	Minutes Minutes of the meeting held on 24 November 2011.	(Pages 3 - 4)
4.	Application No. S/2011/0859 - Pavement, Marsh Brows, Formby Report of the Head of Planning Services	Harington (Pages 5 - 30)

THIS SET OF MINUTES IS NOT SUBJECT TO "CALL-IN"

PLANNING (URGENT REFERRALS) COMMITTEE

**MEETING HELD AT THE TOWN HALL, BOOTLE
ON 24 NOVEMBER 2010**

PRESENT: Councillor Tweed (in the Chair)
Councillors Griffiths and Preston

1. APOLOGIES FOR ABSENCE

None were received.

2. DECLARATIONS OF INTEREST

No declarations of interest were received.

3. MINUTES

RESOLVED:

That the Minutes of the meeting held on 5 October 2010 be confirmed as a correct record.

4. APPLICATION NO. S/2010/1405 - TELECOMMUNICATIONS MAST ON PAVEMENT AT JUNCTION OF COLLEGE ROAD AND BROOKE ROAD EAST, WATERLOO.

The Committee considered the report of the Planning and Economic Regeneration Director recommending that the above Prior Notification Procedure application for the installation of a replacement 12.5m high (total height) telecommunications mast with one new cabinet to replace existing two cabinets be approved for the reasons stated or referred to in the report.

RESOLVED:

That the recommendation be approved and the application be granted for the reasons stated within the report and subject to the conditions referred to in the report.

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Report to: Planning Committee (Urgent Referrals)
Date of Meeting: 10 August 2011

Subject: **S/2011/0859**
Site for mast on pavement at Marsh Brows, Formby

Proposal: Prior Notification Procedure for the erection of a replacement 15 metre high telecommunications mast and associated ground based equipment cabinet (alternative to S/2008/0703 refused 15 Oct 2008 allowed on appeal 27 May 2009)

Applicant: Telefonica O2 (UK) Ltd / Vodafone Limited **Agent:** CAIP Ltd.

Report of: Head of Planning Service **Wards Affected:** (Harington Ward)

Is this a Key Decision? No **Is it included in the Forward Plan?** No

Exempt/Confidential No

Summary

The proposal seeks to replace like for like an existing telecommunications mast of 15 metres in height with an additional ground cabinet.

Recommendation(s)

Approval

Reasons for the Recommendation:

The Planning Inspector has previously concluded that the siting and external appearance of an identical mast in this position is acceptable in planning terms. In the absence of any other overriding material planning considerations and having had regard to outlooks from the newly constructed residential development nearby, the granting of prior approval is fully justified.

Implementation Date for the Decision

Immediately following the Committee/Council/Working Group meeting

Contact Officer: Mrs S Tyldesley Telephone 0151 934 3569

Case Officer: Steve Faulkner Telephone 0151 934 3081

Email: planning.department@sefton.gov.uk

Agenda Item 4

Background Papers:

The following papers are available for inspection by contacting the above officer(s).

History and Policy referred to in the report

The Site

The site comprises a small area of isolated footway at the end of Granton Close/Marsh Brows. It is directly outside a former dairy site.

Proposal

Prior Notification Procedure for the erection of a replacement 15 metre high telecommunications mast and associated ground based equipment cabinet

History

N/2001/0596 – Erection of 12 metre mast with antennae and associated equipment to rear of Formby Railway Station, Kirklake Road – refused 9 August 2001; not appealed.

S/2008/0703 - Prior notification for the installation of a 15 metre replica telegraph pole telecommunications mast, ground based equipment cabinet and ancillary development – refused 15 October 2008; appeal allowed 27 May 2009 and now in situ.

Consultations

Highways Development Control – There are no objections to this application as the tarmaced area can adequately accommodate the proposed telecommunications mast and associated ground based equipment cabinet.

Neighbour Representations

Last date for replies: 26 July 2011. The application has been called in by Councillor Alf Doran for determination by Committee.

A petition has been received containing 44 signatures from residents of Hillary Court sponsored by Councillor Catie Page. The petition claims that the doubling of emissions is too much and there is a fear that they wish to add more.

Letter of objection received from 72 Hillary Court:

- existing is a rusty pole covered in bird droppings;
- person responsible for granting would not allow it near their place of residence;
- possible increase in strength of output if used by two companies;
- can it be repositioned in car park/along railway line?

The petitioner has submitted a photograph of the existing structure as viewed from 72 Hillary Court (attached).

Letter of objection received from 9 Marsh Brows – protest strongly to any increase in the level of equipment being added and point to the recent granting of planning permission for new developments in the area.

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Policy

The application site is situated in an area allocated as Primarily Residential Area on the Council's Adopted Unitary Development Plan.

MD8 Telecommunications Development
PPG8 Telecommunications

Comments

The application was deferred at the meeting of the 27 July 2011, in order to ensure clarification on matters relating to the ground based equipment cabinets, and the issue relating to whether a better alternative site is available.

The proposed installation would be an identical replacement of the existing 15 metre installation. It would be positioned on a piece of left over footway on the west side of Marsh Brows, the south of Granton Close and the north side of Hillary Court.

The key issue relate to the siting and appearance of the structure and the consequent impacts on the visual amenity of the area and neighbouring residents. It is also necessary to consider health-related impacts.

A key material consideration in this application relates to the decision of the previous Inspector with regard to the mast presently in situ. This was refused but subsequently, the appeal was allowed. A copy is attached.

Given that what is now proposed would in terms of the mast itself be identical to the existing (though an additional equipment cabinet is proposed), it is clear that there would be considerable difficulty in persuading a second Inspector to reach a different conclusion to that reached by his colleague should this be refused.

The reason for the replacement is to afford two separate operators the facility to share the new installation. The benefit this brings is that it would avoid the new operator seeking an alternative installation elsewhere in the near vicinity.

It is worth noting that since the original appeal was allowed, permission was granted under reference S/2009/1007 for three dwellings on the land opposite at no. 5. These dwellings are constructed at their nearest point around 12 metres from the current installation, but the ground and first floor windows are offset therefore not facing it directly, and no reference was made in the granting of that approval for the potential poor outlook to these windows for that very reason.

Therefore, whilst there is a slight change in circumstance from what was considered previously, it is considered that no material harm to outlook can be substantiated and the presence of the dwellings would be unlikely to have affected the Inspector's previous decision.

Health

As part of the proposal, the applicant has submitted a certificate to certify that emission will not exceed recommended levels (ICNIRP). Therefore the application cannot be

refused consent solely on the grounds of the perceived risk of the proposal to health, despite there being two operators.

Whilst the fears of health effects may be a material consideration, given Government advice on the consideration of health implications of masts, it is not considered that the health concerns raised are sufficient to outweigh Government advice and the balance of evidence available at present.

Ground Based Equipment

The original appeal allowed two cabinets adjacent to the ground based installation. The third cabinet is permitted development on the basis that it has a volume of no more than 2.5 cubic metres.

It has now been established, since the Planning Committee meeting of the 27 July, the cabinet, to the left side of the two previously allowed, was erected by another operator in 2010 and did not require either prior approval or planning permission.

The new cabinet proposed within the application would also not require either planning permission or prior approval, as, whilst bigger than the other cabinets, is still under 2.5 cubic metres. The impact of ground based equipment cannot therefore be put forward as a reason for refusal as it is depicted purely for information and context.

Need and alternative sites

The issue of alternatives has been discussed with the applicant, however, the fact is that the applicant does not need to demonstrate a search of alternative sites.

Part of the Council's previous reason for refusal referenced the issue of whether alternative sites may be preferable. However, as can be seen from the appeal determination, the Planning Inspector concluded that as no harm was identified, there was no requirement for alternative sites to be considered. The applicant is understandably reluctant to do so if they already have an approval and can offer a share of the existing installation with another operator.

As is evident from the history, the Council refused prior approval (against officer advice) for a telecommunications mast at Formby Car Park in 2001 (N/2001/0596). The potential for an installation here was revisited during discussion of the 2008 appeal, but the Appellant indicated at that time that the railway operator was unwilling to accommodate. It was also indicated that a higher installation would be required than that refused by the Council previously, due to technical and coverage requirements.

Regarding the railway premises, it is understood that rail networks are continually reviewing their own communications systems and are reluctant to sterilise their property through allowing its occupation with third party installations. It may be noted that there is currently an ongoing series of installations being undertaken by Merseyrail at present to advance their railway communication systems.

There would appear to be no substantive reason to require an alternative repositioning based on the alternatives having already been dismissed. Even if the installation was new, such installations are acceptable as a matter of principle and siting/appearance considerations must override the issue of assessing suitable alternatives.

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The proposal is specifically promoted in itself as a share for more than one operator. If the application is refused the second operator would be forced to consider an alternative site elsewhere with no prospect of the existing installation being repositioned, therefore potentially causing further harm which would likely prove even more difficult to defend.

By the same token the approval of this application would mean no additional visual impacts from a further monopole.

Conclusion

The key view is that expressed by the Planning Inspector through his decision to allow what is currently there and in those circumstances, it is not considered appropriate to pursue a recommendation of refusal.

Reasoned Justification

The Planning Inspector has previously concluded that the siting and external appearance of an identical mast in this position is acceptable in planning terms. In the absence of any other overriding material planning considerations and having had regard to outlooks from the newly constructed residential development nearby, the granting of prior approval is fully justified.

Signed in support of the petition

26-7-11

Councillor C. Page

IF YOU DO NOT WANT THE EXTENSION TO THE TELEPHONE MAST ON MARSH BROW PUT YOUR NAME BELOW. PLEASE BE QUICK THE OBJECTION HAS TO BE IN BY THE 26th JULY.

M. J. Dean (86)

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A SAINSBURY (46)

Received by Sefton Council
PLANNING & ECONOMIC REGENERATION
DEPARTMENT- BOOTLE OFFICE

20 JUL 2011

SECRET

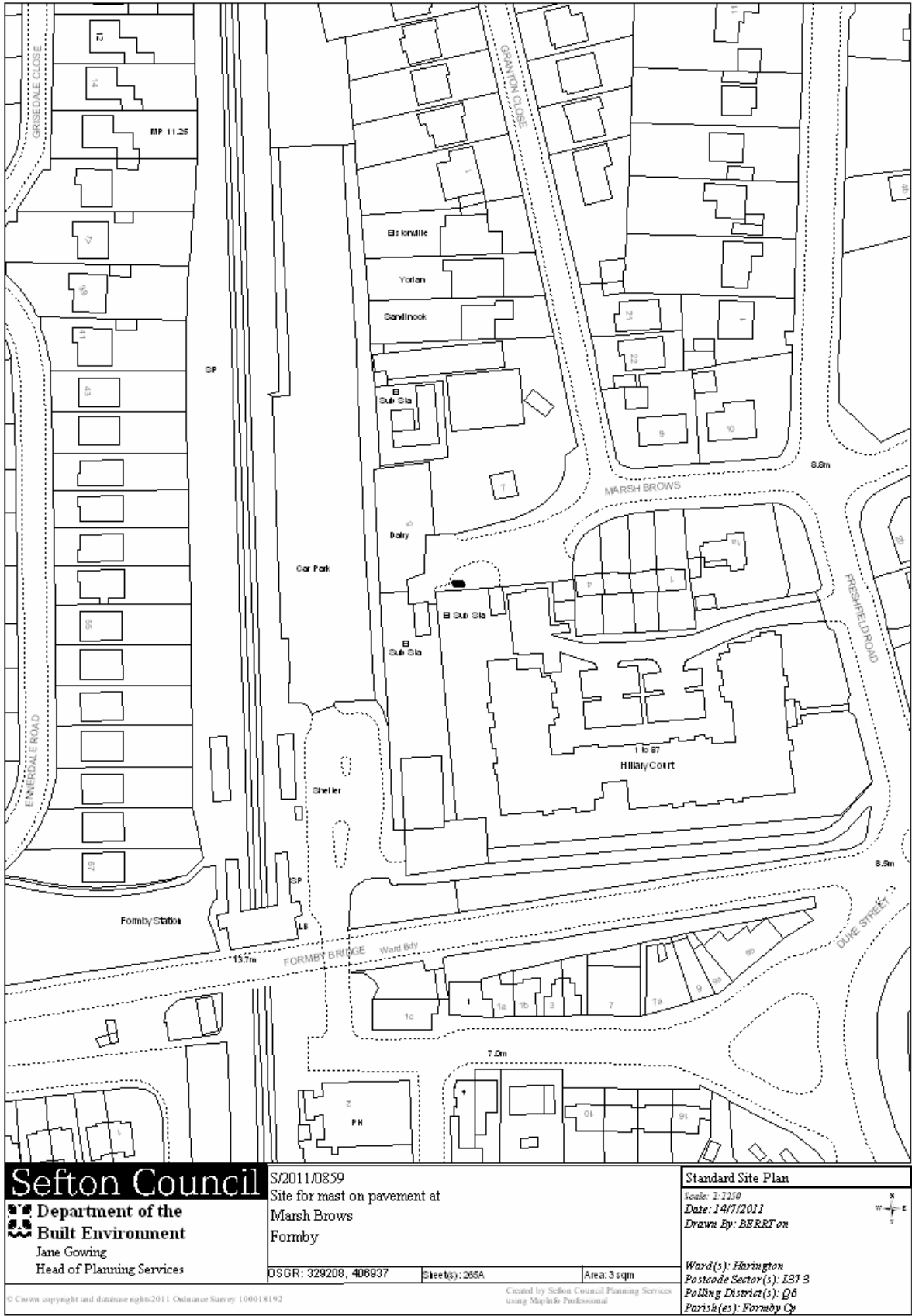
Agenda Item 4



Drawing Numbers

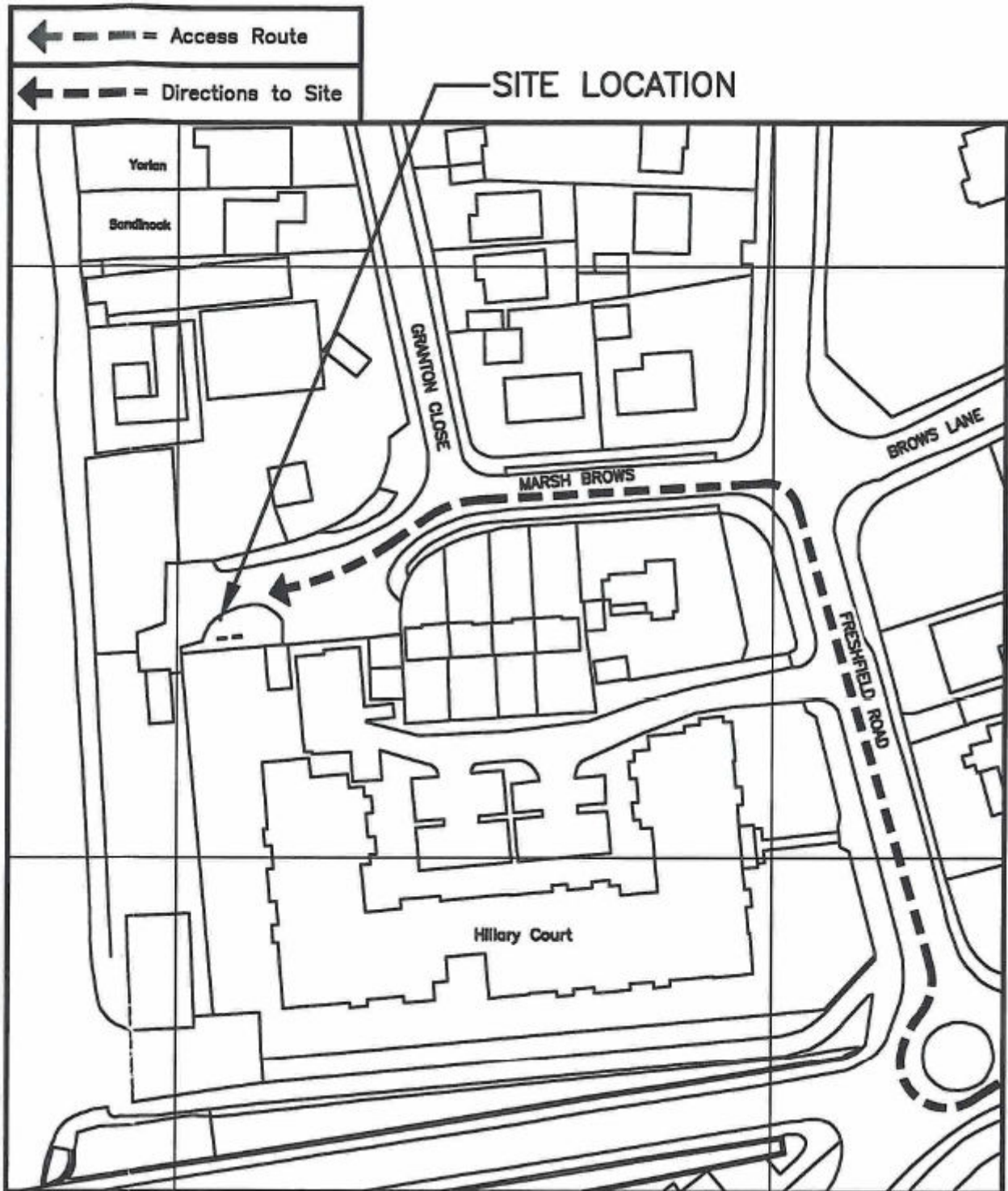
100, 200, 300, 400 and 500 received 24 June 2011.

Existing site plan



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Proposed site plan



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Agenda Item 4

Report to: [Planning Committee](#) **Date of Meeting:** [27 July 2011](#)

Subject: [S/2011/0859](#)
[Site for mast on pavement at Marsh Brows, Formby](#)

Proposal: [Prior Notification Procedure for the erection of a replacement 15 metre high telecommunications mast and associated ground based equipment cabinet \(alternative to S/2008/0703 refused 15 Oct 2008 allowed on appeal 27 May 2009\)](#)

Applicant: [Telefonica O2 \(UK\) Ltd / Vodafone Limited](#) **Agent:** [CAIP Ltd.](#)

Report of: [Head of Planning Service](#) **Wards Affected:** [\(Harington Ward\)](#)

Is this a Key Decision? [No](#) **Is it included in the Forward Plan?** [No](#)

Exempt/Confidential [No](#)

Summary

The proposal seeks to replace like for like an existing telecommunications mast of 15 metres in height with an additional ground cabinet.

Recommendation(s)

Approval

Reasons for the Recommendation:

The Planning Inspector has previously concluded that the siting and external appearance of an identical mast in this position is acceptable in planning terms. In the absence of any other overriding material planning considerations and having had regard to outlooks from the newly constructed residential development nearby, the granting of prior approval is fully justified.

Implementation Date for the Decision

Immediately following the Committee/Council/Working Group meeting

Contact Officer: **Mrs S Tyldesley** Telephone 0151 934 **3569**

Case Officer: **Steve Faulkner** Telephone 0151 934 **3081**

Email: planning.department@sefton.gov.uk

Agenda Item 4

Background Papers:

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History and Policy referred to in the report

S/2011/0859

The Site

The site comprises a small area of isolated footway at the end of Granton Close/Marsh Brows. It is directly outside a former dairy site.

Proposal

Prior Notification Procedure for the erection of a replacement 15 metre high telecommunications mast and associated ground based equipment cabinet (alternative to S/2008/0703 refused 15 Oct 2008 allowed on appeal 27 May 2009)

History

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Policy

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MD8
PPG8

Telecommunications Development
Telecommunications

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Comments

The proposed installation would be an identical replacement of the existing 15 metre installation. It would be positioned on a piece of left over footway on the west side of Marsh Brows, the south of Granton Close and the north side of Hillary Court.

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Health

As part of the proposal, the applicant has submitted a certificate to certify that emission will not exceed recommended levels (ICNIRP). Therefore the application cannot be refused consent solely on the grounds of the perceived risk of the proposal to health, despite there being two operators.

Whilst the fears of health effects may be a material consideration, given Government advice on the consideration of health implications of masts, it is not considered that the health concerns raised are sufficient to outweigh Government advice and the balance of evidence available at present.

Need and alternative sites

Part of the Council's previous reason for refusal referenced the issue of whether alternative sites may be preferable. However, as can be seen from the appeal

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determination, the Planning Inspector concluded that as no harm was identified, there was no requirement for alternative sites to be considered. There would appear to be no substantive reason to pursue an alternative repositioning based on this suggestion having already been dismissed.

Conclusion

The key view is that expressed by the Planning Inspector through his decision to allow what is currently there and in those circumstances, it is not considered appropriate to pursue a recommendation of refusal.

Conditions & Reasons

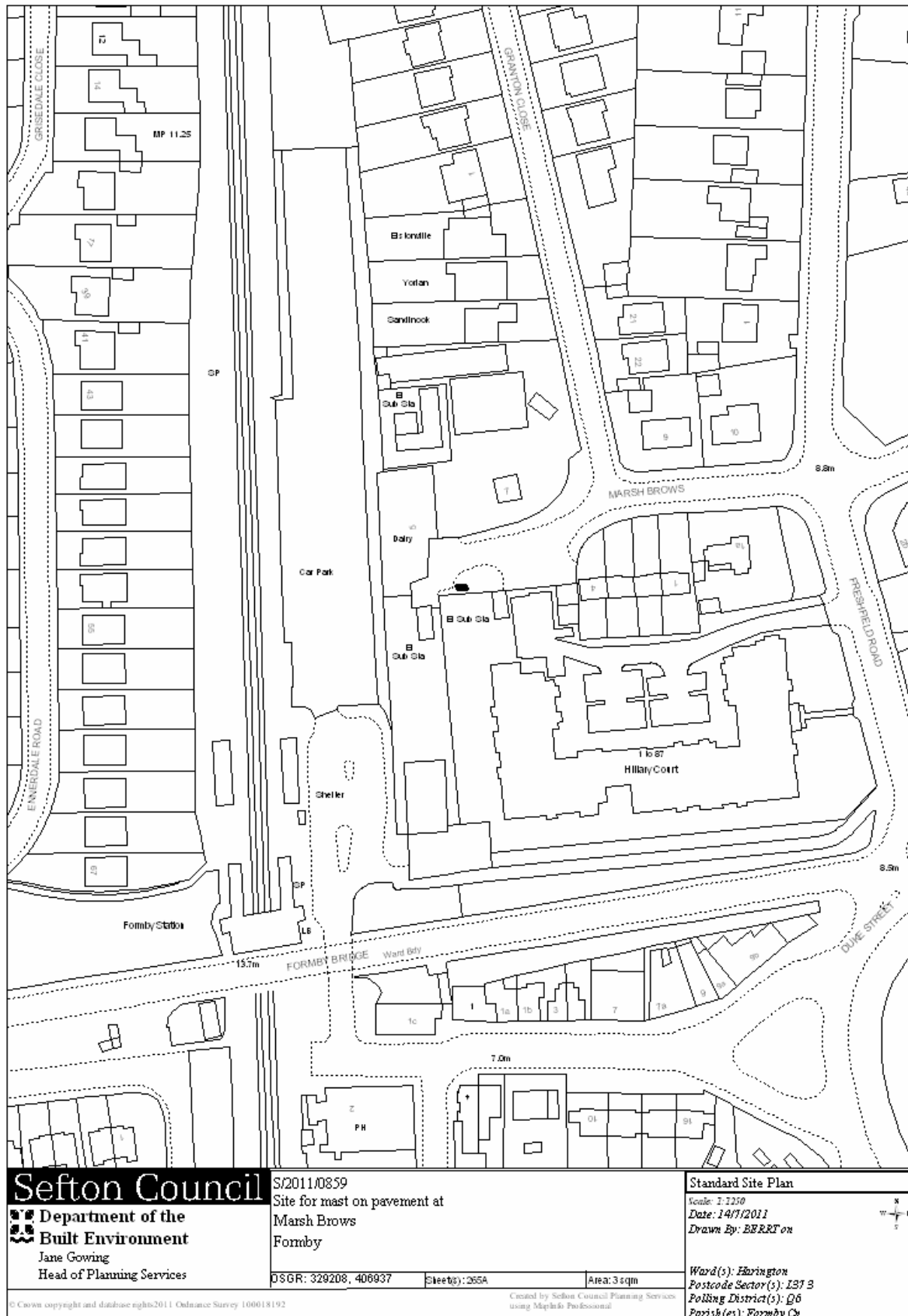
None

Drawing Numbers

100, 200, 300, 400 and 500 received 24 June 2011.

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Existing site plan



Sefton Council

Department of the
Built Environment
 Jane Gowing
 Head of Planning Services

S/2011/0859
 Site for mast on pavement at
 Marsh Brows
 Fomby

OSGR: 329208, 406937

Sheets: 265A

Area: 3 sqm

Standard Site Plan

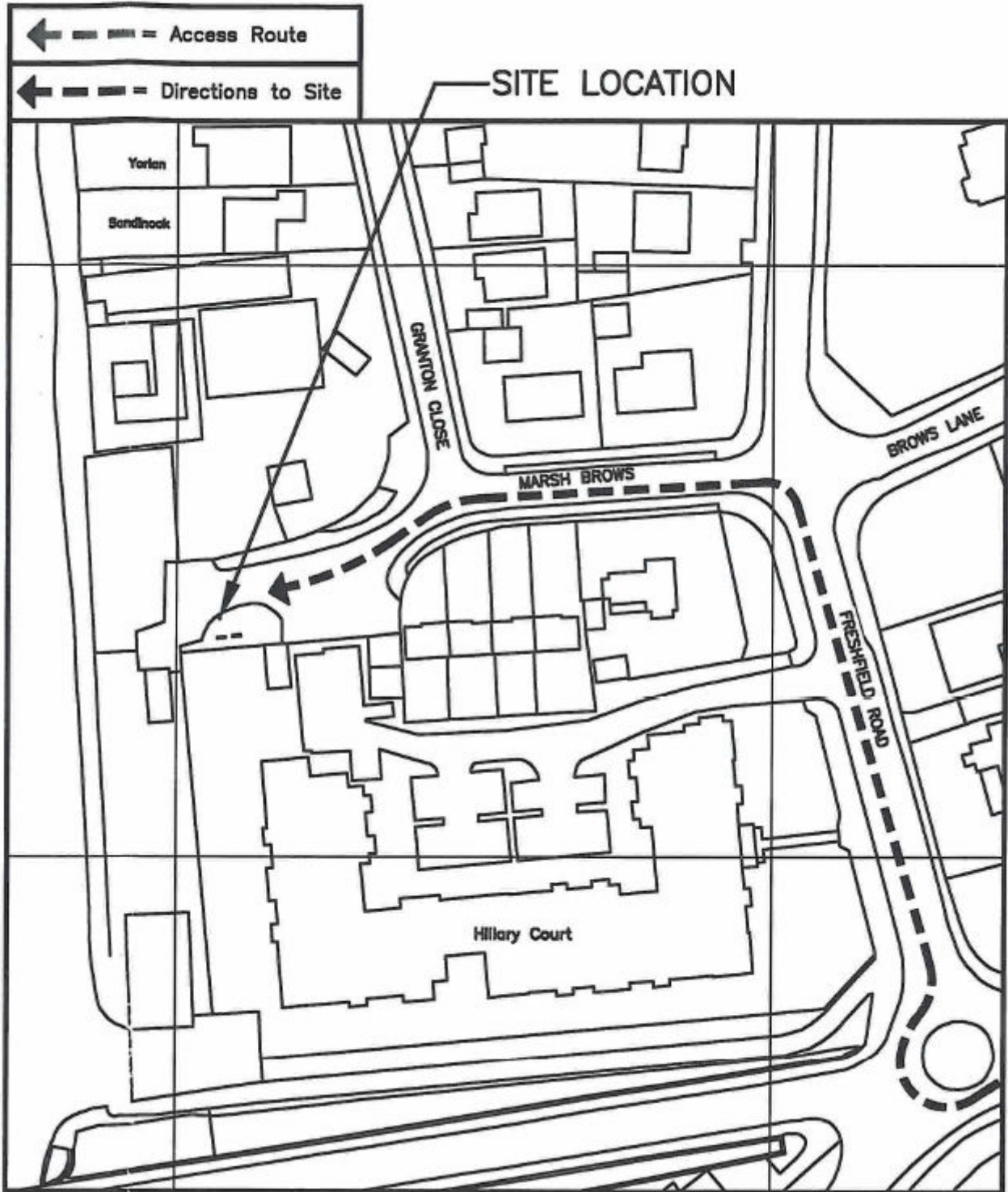
Scale: 1:1250
 Date: 14/1/2011
 Drawn By: EBERT on

Ward(s): *Harlington*
 Postcode Sector(s): *L37 3*
 Polling District(s): *Q6*
 Parish(es): *Fomby Cp*

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Created by Sefton Council Planning Services
 using MapInfo Professional

Proposed site plan



Agenda Item 4



Appeal Decision

Site visit made on 12 May 2009

by **Michael Evans BA MA MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
27 May 2009

Appeal Ref: APP/M4320/A/09/2097656

The pavement at the end of Marsh Brows, Formby L37 3PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Telefonica O2 UK Ltd against the decision of the Council of the Metropolitan Borough of Sefton.
- The application (Ref:S/2008/0703), dated 29 August 2008, was refused by notice dated 14 October 2008.
- The development proposed is the installation of a radio base station consisting of a 15m replica telegraph pole, cannon type G cabinet and development ancillary thereto.

Decision

1. I allow the appeal and grant approval under the provisions of Part 24 of Schedule 2 to the Town and Country (General Permitted Development) Order 1995 (as amended) in respect of development by a telecommunications code system operator for the siting and appearance of a radio base station consisting of a 15m replica telegraph pole, cannon type G cabinet and development ancillary thereto at the pavement at the end of Marsh Brows, Formby L37 3PD in accordance with the terms of the application (Ref:S/2008/0703), dated 29 August 2008 and the plans submitted therewith.

Main issues

2. I consider that the main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect on the outlook of the occupiers of the apartments in the adjacent building at Hillary Court.

Reasons

3. The proposed telecommunications equipment would be located on a 'D' shaped area of pavement in a relatively wide part of the street towards the end of a cul de sac. There is existing street furniture in the vicinity in the form of telegraph poles and street lights. The latter are about 5m high and the former 8-9m. There are also several trees located to the south west of the site. These would be lower than the proposed pole but would still provide a significant degree of backdrop.
4. Hillary Court is a three storey building with a roof above, located to the south of the site. It is noticeably higher than the existing telegraph poles but would be lower than the new structure. However, the considerable scale and mass of this relatively large building would ensure that the additional height of the

reasonably slender proposed structure was insufficient to result in an adverse visual effect. Hillary Court would therefore serve to visually counterbalance the presence of the telecommunications equipment. The diameter of the proposed pole would modestly exceed that of the nearby telegraph poles, ensuring that it was not unduly wide. The design would appropriately seek to imitate the appearance of the telegraph poles and despite the greater height this would help to successfully integrate the proposal into the streetscene.

5. For all the above reasons, I conclude that the siting and appearance of the proposal would be acceptable and the character and appearance of the area would not be harmed. In this respect there is, in consequence, no conflict with Unitary Development Plan (UDP) policy MD8.
6. The pole would be visible from the windows of apartments in Hillary Court. However, being able to see a development does not in itself amount to a harmful effect. In the Council's report on the planning application it is indicated that the structure would be seen from about 20m away. The pole would be sufficiently slender to ensure that there would be no significant sense of enclosure, despite the height, from either within the apartments or from the associated outdoor amenity areas. As a result there would be no undue loss of outlook experienced by the residents of Hillary Court. The Council has raised no concerns in relation to other dwellings in the area and given the orientation of windows and the distances involved I share that view.
7. For these reasons I conclude that the outlook of the occupiers of the adjacent apartments would not be harmed. In this regard there would be no conflict with UDP policy MD8.
8. In Planning Policy Guidance Note 8 *Telecommunications* (PPG8), it is advised that if a proposal meets the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure to radio waves it should not be necessary for a planning authority to consider further the health aspects of the proposal. Nevertheless, local residents have expressed concerns on health grounds and I accept that their fears are relevant to my decision. On balance, however, and bearing in mind that there is little objective evidence to support local fears and that the emissions from the structure would be within the ICNIRP guidelines, I do not consider that local residents' health concerns are sufficient to justify rejecting the appeal.
9. Both main parties have submitted appeal decisions purporting to support their cases. However, in my experience it is unlikely that the precise circumstances of different sites and proposals would precisely coincide and I must determine this appeal strictly on its own merits. There is no detailed evidence to substantiate any adverse effect in relation to television reception. Interested parties have suggested that property values would be affected by the scheme. However, in PPG8 it is made clear that this is not normally a matter to which appreciable weight should be attached in assessing a telecommunications proposal.
10. With respect to submissions about the European Convention on Human Rights it is not clear which rights are being referred to. However I have considered this point carefully and I am satisfied that dismissing this appeal would not

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Appeal Decision APP/M4320/A/09/2097656

place an excessive burden on interested parties and there would be no violation of any human rights.

11. One of the Council's reasons for refusal relates to concerns that the Appellant did not undertake an adequate assessment of alternative sites. The purpose of such a consideration is to limit harm by seeking to identify less detrimental locations in circumstances where an adverse effect is outweighed by the need for the proposed development. However, where there is an absence of harm, as in this case, the purpose is nullified and the availability of other sites is not therefore a factor that weighs against the current proposal.
12. I conclude that none of the above, or any other matter raised, is sufficient to outweigh the absence of harm that I have found. I therefore determine that the appeal succeeds.

M Evans

INSPECTOR

LATE REPRESENTATION

Item No 5G

S/2011/0859: Site for mast on pavement at Marsh Brows, Formby

A petition has been received containing 44 signatures from residents of Hillary Court sponsored by Councillor Catie Page. The petition claims that the doubling of emissions is too much and there is a fear that they wish to add more.

The petitioner has submitted a photograph of the existing structure as viewed from 72 Hillary Court (attached).

Letter of objection received from 9 Marsh Brows – protest strongly to any increase in the level of equipment being added and point to the recent granting of planning permission for new developments in the area.

The Head of Planning Services has made reference to these issues in the main report; the applicant has confirmed that the level of emissions is within recognised ICNIRP guidelines, and the relationship of the proposal to new build dwellings is already set out in the report.

The proposed installation is of robust construction built to withstand all weather conditions.

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Signed in support of the petition

20-7-11

Councillor C. Page

IF YOU DO NOT WANT THE EXTENSION TO THE TELEPHONE MAST ON MARSH BROW PUT YOUR NAME BELOW. PLEASE BE QUICK THE OBJECTION HAS TO BE IN BY THE 26th JULY.

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PLANNING & ECONOMIC REGENERATION
DEPARTMENT - BOOTLE OFFICE

20 JUL 2011



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