

PLANNING AND BUILDING (JERSEY) LAW 2002 (as amended)

Appeal under Article 108 against a decision made to grant a planning permission

REPORT TO THE MINISTER FOR PLANNING AND ENVIRONMENT

By Mr Philip Staddon BSc, Dip, MBA, MRTPI

Appellant: Mr Malcolm L'Amy (Third Party Appellant)

Site address: Field No. P525B, La Rue du Coin Varin, St. Peter

Application reference number: S/2023/0603

Proposal: *'Replace 1 no. Pole, 3no. Antennas, 2no. Cabinets, associated equipment & wooden fencing. to North West of site.'*

Decision Notice date: 7 December 2023

Procedure: Hearing held on 27 March 2024

Inspector's site visit: 25 March 2024

Inspector's report date: 29 April 2024

Introduction

1. This report contains my assessment of the third party appeal made by Mr Malcolm L'Amy. His appeal is made against the decision of the Department for Infrastructure and Environment (the planning authority) to grant planning permission for the installation of various telecommunications equipment at Field P525B. The proposed development is near the appellant's home, *La Rosa*. The applicant is JT (Jersey) Ltd (hereafter JT), the Island's main telecommunications provider.
2. For clarity, under the Law¹, the decision to grant permission remains in effect, but the development cannot be implemented until this appeal has been decided. Should the Minister decide to allow this appeal, permission would be refused and the development could not proceed.

Procedural matters

3. I have been advised that multiple parties originally intended to lodge this appeal, but it was deemed administratively simpler if the appeal proceeded in the name of one appellant only, i.e. Mr L'Amy. The other parties

¹ Article 117(1) and (2) - Planning and Building (Jersey) Law 2002 (As Amended)

supporting this appeal in this regard are Mr and Mrs Morris (who live at *Three Oaks*), and Mr and Mrs Neal (who live at *La Rosa*). The number of appellants has no direct bearing on my assessment of the planning merits of this case.

4. Prior to the Hearing, the appellant's agent wrote² to the Judicial Greffe raising concerns about potential professional conflict issues arising from the applicant's agent's previous role as an officer working for the planning authority. I invited discussion on this matter at the Hearing.
5. It is a matter of fact that the applicant's planning consultant, Ms Duffell, had previously worked for the planning authority, and that involved senior roles, and involvement in a wide range of planning applications in a regulatory capacity. However, at the Hearing, Ms Duffell confirmed that she had little, if any, involvement in the assessment and determination of planning applications on the appeal site, and on adjacent land (the former Living Legend site). She also informed me that she had consulted the professional code³ and advice⁴, and was satisfied that no conflict issues arose.
6. I have noted Ms Duffell's changed professional roles and her submissions to me. I am satisfied that her involvement in these appeal proceedings does not raise any matters concerning conflicts of interest, or create any issues of unfairness to other appeal parties.
7. There are some inaccuracies in the list of plans and documents that appear at the end of the Decision Notice. I pick up these minor matters in my recommendation at the end of this report.
8. At the Hearing, the appellant made a request to audio record the session. Planning hearings are not routinely sound recorded at the Tribunals Services offices, but they are held in public. I had no objection to this request, subject to the agreement of other parties present. No other parties raised any objections and I therefore permitted the recording.

The appeal site, the existing telecoms equipment, the proposal and the application determination

The site

9. Field P525B is a small, roughly rectangular, parcel of land, with road frontages to Le Mont de St Anastase (the north west field boundary) and La Rue du Coin Varin (the eastern field boundary). There is a row of houses running along the north-west side of Le Mont de St Anastase, and 2 of these, including the appellant's home, directly face the appeal site. There are also dwellings to the east of La Rue du Coin Varin, including a cul-de-sac of relatively new dwellings built on the former Living Legend site.

² Ms Steedman's email to the Judicial Greffe dated 13 February 2024

³ Royal Town Planning Institute Code of Professional Conduct (February 2023)

⁴ Royal Town Planning Institute Practice Advice 'Ethics and Professional Standards' (updated 2017)

Existing telecoms equipment

10. Field P525B contains operational telecommunications equipment, planning permission having been granted in 2020, and the planning history is discussed later in this report. There is a 12 metre high monopole mast, along with equipment cabinets contained within a fenced enclosure, in the north-western part of the field. The monopole is timber and akin to a large telegraph pole. It tapers in width from a 450 mm diameter at the base, reducing to 360mm in its higher parts, above which is a wider 600 mm diameter protective casing, which houses the telecoms antenna. The casing is brown coloured.
11. Although there are trees and vegetation in the vicinity, I observed that the pole is visible from a number of public locations, although the clear views tend to be in relatively close proximity. It is seen in views when approaching by road along La Rue de Petit Aeval from the north-east. It is also visible when you approach from the south-west along Le Mont de St Anastase, although it only comes into view within a relatively short distance, and it is seen in the context of telegraph poles and cables (the cables cross the road at this point) and roadside trees and vegetation. More views are possible when approaching from the south, along La Rue du Coin Marin, but again only in close proximity. Other public views are from the east along Petit Route du Campagne (the road serving the Living Legend site housing development), where it can be seen in glimpsed views through gaps between the new houses.
12. I also inspected from private views and locations, and noted that the mast, particularly its upper part, is visible from nearby dwellings to the north and west. In particular, there are clear views from front facing habitable room windows at *Tamarind* (the appellant's home), *La Rosa* (Mr and Mrs Neil) and *Three Oaks* (Mr and Mrs Morris). There are also views of the mast from the gardens of these properties. JT has undertaken some recent planting (3 Holm Oaks and over 60 whip hedge plants), but this does not yet provide any meaningful screening, when viewed from the north and west. Although I did not enter the private garden areas of the new houses on the former Living Legend site, the mast will also be visible from at least the closest 3 properties.
13. My observations were made in late March and most of the deciduous trees were yet to come into leaf. I would anticipate that once the trees are in full leaf, views of the mast may be more restricted, but it will not be fully screened and will remain visible.

Application S/2023/0603 proposal

14. The appeal proposal seeks planning permission for a replacement pole and associated equipment. The new pole would be of a similar height, and of a painted steel construction, with a uniform diameter of 355 mm for most of its height, but with the top 3 metre antenna structure being wider, with a diameter of 850 mm. A small aerial would rise 600 mm above this. The associated cabinets would be ground mounted and contained within the timber fenced enclosure.

15. A letter⁵ accompanying the application explains that the proposal is part of JT's network modernisation project, which includes replacing timber poles with steel longer life poles, and upgrading equipment.

Application S/2023/0603 determination

16. The application was determined by the Planning Committee, which considered it at the October 2023 and December 2023 meetings. On the first occasion, the Committee deferred consideration to enable Environmental Health advice to be received, with particular regard to potential health impacts. I am advised that the Committee undertook a site inspection and that objectors were given the opportunity to address the Committee.
17. At the December 2023 meeting, the Committee resolved to grant planning permission. In addition to the standard time limit and plans compliance conditions, 3 further planning conditions were imposed. The first relates to a post-commissioning test concerning electromagnetic radiation, the second requires approval of the fence stain colour, and the third requires a detailed landscaping scheme. Mr L'Amy's appeal is made against that decision.

Summary of the appellant's grounds of appeal

18. The appellants' case is set out in the appeal form, a more detailed Statement of Case and appendices, and a 'further comments' document.
19. The appeal form includes an appended document that sets out 5 grounds of appeal, which I summarise briefly below, and explore in more detail later in this report.

Ground 1 – Potential health impacts, and conflict with the Bridging Island Plan (BIP) policies SP7(5) and GD1(d).

Ground 2 – Planning history related to application S/2020/0840, and conflict with BIP policies SP2 and SP7.

Ground 3 – Impact on Island identity and on heritage assets, and conflict with BIP policy SP4.

Ground 4 – Impact on the natural environment, and conflict with BIP policies SP5 and NE1.

Ground 5 – Impact on landscape character, and conflict with BIP policies NE3 and PL5.

20. Also appended to the appeal form is a 5-page letter of objection from the appellant and his wife, dated 10 August 2023, which was sent at the application stage.
21. The appellant's more detailed Statement of Case has been produced by his planning consultant, and it comprises a 32-page document with 12

⁵ Waddington letter dated 11 July 2023

appendices, including correspondence and submissions relating to health concerns, photographs, and background documents. The appellant's further comments document is a one-page submission which follows up matters of concern relating to the planning history of the site, ecology, heritage and health impacts.

Interested parties' cases

22. I have read, and taken into account, the 16 public comment documents submitted at the application stage. These include objections based on visual and landscape harm, potential health impacts, air quality, planning history, and justification.

23. At the appeal stage, I have considered the following objection submissions from interested parties:

Mr and Mrs Neal – Email of 30 January 2024

Mr and Mrs Morris – Email of 25 January 2024

Mr Halford – Email dated 12 February 2024, containing 3 appendices. The first is a UK High Court decision relating to Brighton and Hove City Council's approval of a telecom mast and associated equipment. The second is a document titled 'List of selected credible studies outlining the harm from microwave radiation'. The third is a US Defence Intelligence Agency document published in March 1976, concerning the biological effects of electromagnetic radiation.

Ms Currier – Email dated 24 January 2024, with associated hyperlinks to related documents and webpages, along with 2 appendices, comprising a BioInitiative 2012 working group report, and correspondence between Ms Currier and the Jersey Competition Regulatory Authority.

Mr Lebegue – Letter dated 10 January 2024, plus an enclosure concerning health impacts.

24. A number of interest parties spoke at the Hearing and I have considered, and taken account of, these submissions in my assessment.

Summary of the JT applicant's case and responses

25. JT's submissions are set out in its Statement of Case, which is a 14-page document with 15 appendices, along with a response document, which is 7 pages, with a 1-page appendix. These submissions provide rebuttals to each of the appellant's grounds of appeal and contends that the development complies with the BIP, notably with regard to policies SP2, SP5, SP7, PL5, GD1, GD6, NE1, NE3, HE1, HE5, WER5 and UI4.

26. JT submits that the appeal should be dismissed and the planning permission confirmed.

Summary of the planning authority's case

27. The planning authority's case is set out in its 3-page response document with appendices, which include the officer report, the Decision Notice, and the Planning Committee minutes (October and December 2023 meetings). These submissions explain that the proposal was considered against the relevant BIP policies and assessed to be acceptable. It also provides rebuttals to each of the grounds of appeal.

Inspector's assessment

28. Ground 2 questions the planning history and the legitimacy of the 2020 permission for the timber pole and telecommunications equipment. Were this ground to succeed or fail, there would be knock on implications for the assessment of the appellant's other grounds. Therefore, it should be addressed first.

Ground 2 – planning history

29. The appellant and other interested parties remain deeply concerned by the November 2020 decision, under reference S/2020/0840, to grant permission for a telecommunications development on Field P525B. The appellant's agent draws particular attention to the development description employed; to the process that was followed in the assessment and determination of the application; to matters relating to publicity and objectors' comments; and questions whether condition 1 (concerning post-commissioning testing), has been discharged. The appellant's personal statement (Appendix 8 to his Statement of Case) expands on these concerns.
30. It is apparent to me that there are a number of issues with the S/2020/0840 application, and the associated planning permission, that need to be explored.
31. First, the development description. The application form stated that the proposal was to '*Replace 1 no. antenna with upgraded equipment to provide improved 4G capabilities to West of site*'. That description was carried forward on to the planning authority's records, including the formal Decision Notice. This is problematical, as there was no antenna/equipment within Field P525B to 'replace', and I understand that the telecommunications equipment then to be 'replaced' was some distance away on the former Living Legend site. Furthermore, the description does not include any reference to the 12 metre high pole structure, which is a key part of the operational development, and clearly necessary to support the 'antenna' at the required height.
32. Second, the issue of publicity. I have noted concerns about publicity, which overlap with the less than ideal development description, along with the ongoing impact of Covid-19 pandemic restrictions following the lockdown period. I have also noted the submissions claiming that signed up for 'planning alerts' did not work, and the appellant's claim that, having seen the site notice, he could not find any information to view on the planning authority's website. However, the planning authority has evidenced that

proper publicity procedures were followed, including 2 site notices, with photographic records, along with other publicity channels. It also confirms that 2 representations were received online and that these raised health impact concerns, and that these were considered as part of the application assessment.

33. Third, plans. The appellant's agent has queried the accuracy of the approved plans. However, having inspected the constructed development, I am satisfied that it accords with the plans approved under reference S/2020/0840. I also observed that the plans and elevations were presented on scaled and dimensioned drawings, which were clear and easy to interpret, particularly through the accurate coloured photomontage elevations from 5 different locations.
34. Fourth, planning conditions. The appellant has queried whether condition 1, which requires the planning authority's approval of post-commissioning electromagnetic levels, has been complied with. I am satisfied that it has, and this is confirmed by the planning authority's letter dated 5 May 2021. That letter also confirmed that conditions 2 and 3 do not need to be formally discharged. At the Hearing, it became clear that the imposed condition 3 was nonsensical, as it requires all existing trees to be retained at a height of 'no less than 12 metres', but most of the trees are nowhere near that height, and maintaining trees at that height would be likely to interfere with the operation of the telecommunications antennae. The condition is therefore illogical, unreasonable, and unenforceable, and does not meet the required tests for planning conditions.
35. Summing up the above, I find that the development description was poorly worded and could be misleading, although it was not so flawed as to conceal that a telecommunications equipment development was being proposed. Despite the poor description, the application was publicised and, those viewing the submitted documents and plans would have been able to see and assess the proposal, which was clearly presented through the application plans and documents; some clearly did so, and lodged objections to the application. The planning condition concerning electromagnetic levels has been discharged, but condition 3 is nonsensical and could not be complied with. It is also important to record that the S/2020/0840 planning decision was not the subject of an appeal under Article 108, nor any legal challenge through the Royal Court, and the time periods for those challenge procedures have long since expired. The development was implemented and it accords with the plans approved and listed in the S/2020/0840 Decision Notice.
36. I now turn to what these summary findings mean in practice. At the Hearing, I explained that my task was to assess Mr L'Amy's appeal against the decision to grant permission for the current scheme under reference S/2023/0603, and not the merits of the scheme approved in 2020. However, planning history can be a relevant material consideration and it is important to assess and understand it. The key questions here are whether the S/2020/0840 permission is extant, and whether the development constructed pursuant to it is lawful.

37. Having considered all of the above, I assess that, despite some failings at the application stage, the S/2020/0840 permission is extant, and the existing development that I inspected at the site is lawful. This finding does have implications for other grounds of appeal, as it means that the starting point for assessment is an already consented and operational telecommunications equipment site. That clearly limits the extent to which certain matters, including matters of principle and location, can be considered in this current appeal. I appreciate that this finding will disappoint the appellant and interested parties, but it is an inescapable and necessary conclusion of legality.
38. I conclude that ground 2, insofar as it suggests that the planning history issues should lead to a refusal of the current application, should not succeed.

Ground 1 – Health

39. The appellant, his neighbours and other interested parties, have expressed considerable concerns about the impact the development may have on their health. Mr L’Amy referred to his experience [REDACTED] after being close to the mast, and that these disappear when he is away from it. He also submitted that [REDACTED] [REDACTED] may be linked to the mast, whilst accepting that it was hard to draw a direct evidential link. However, it was submitted that the health concerns have been raised consistently and that the Government should adopt a precautionary principle, as scientific understanding of electromagnetic radiation will evolve, and its understanding may not be the same in the future.
40. I have also read, and taken into account, public comments submitted by a number of interested parties at the application and appeal stages, including the various scientific reports, documents and a UK court judgment. I have also considered the contributions from Connétable Richard Vibert at the hearing, with regard to impacts on mental health.
41. I have further noted the specific concern, expressed by Mr Lebegue, who fears that the decision maker in this case may have no knowledge or understanding of electromagnetic radiation matters. To an extent that is true, as neither the Minister nor the Planning Committee, or indeed a Planning Inspector, can be expected to be experts in this specialist area of science. However, planning decision makers operate in the public interest, and are guided by evidence and the views of experts, often in their role as consultees on planning applications.
42. The Planning Committee deferred its consideration at the October 2023 meeting, specifically to allow for expert input from its Environmental Health officers. The key part of that subsequently received advice⁶ stated:

⁶ Environmental Health Service – consultation response to planning application S/2023/0603 dated 4 August 2023.

The pre-commissioning details supplied indicate that the estimated electro-magnetic (EM) Level is below the ICNIRP Radio Frequency Public Exposure Guidelines.

Upon installation and commissioning the EM levels must be measured to confirm that the Guidelines have not been exceeded. A certificate to this effect should be provided by the application.

43. ICNIRP stands for International Commission on Non-Ionizing Radiation Protection. It is a non-profit making organization with a scientific mission. It is formally recognised by the World Health Organization and the International Labour Organization. Most European governments, and many other countries, use ICNIRP as the benchmark for telecommunications development in terms of setting the safeguards for public exposure. It is mainstream planning practice to require ICNIRP certification at pre and post-commissioning stages, to demonstrate that a development would fall within its guidelines.
44. ICNIRP compliance is the adopted approach for telecommunications development in Jersey. The BIP makes clear⁷ that ICNIRP certification is a requirement of both licensing and the granting of planning permission. That compliance process was clearly set down, and followed in the earlier S/2020/0840 application. The planning authority has adopted a similar approach with the current S/2023/0603 proposal, the application including a pre-commissioning ICNIRP certificate, and condition 1 requiring a post-commissioning certificate.
45. Health impacts, and public fears about health impacts, are capable of being a material planning consideration. BIP policy GD1 says that development must not unreasonably harm the amenities of occupants and neighbouring uses, including those of nearby residents, and in particular, will not, under GD1(1d), adversely affect the health, safety and environment of users of buildings and land by virtue of emissions to air, land, buildings and water including light, noise, vibration, dust, odour, fumes, electro-magnetic fields, effluent or other emissions. Policy SP7(5) states that '*development must be located and designed to avoid environmental risks and, where necessary, demonstrate how measures to minimise and mitigate any impacts arising from identified environmental risks have been incorporated, as far as reasonably practicable.*'
46. In my assessment, these health protecting policies must be read alongside the BIP's content on telecommunications development, which is premised on ICNIRP certification to provide the necessary health safeguards. The appellant's submissions are that a more precautionary approach should be adopted. However, I consider that departing from the International Commission guidelines for public exposure, would require the demonstration of exceptional circumstances to justify doing so. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines should be departed from. It is clearly very difficult to respond to some of the specific sensitive health matters raised by Mr L'Amy, but even he appeared to

⁷ Bridging Island Plan (adopted March 2022) page 312

acknowledge that it was hard to evidence causality. Moreover, my understanding is that ICNIRP certification embodies the necessary precautionary principle, and is based on the best international scientific consensus available.

47. I must also attach weight to the expert evidence provided by Mr Cragg (Environmental Health officer) and the submissions from the JT representatives, which suggest that the likely emissions will be a very small fraction⁸ of the ICNIRP permitted levels, and are considered safe. Mr Cragg also submitted that there are other telecommunications installations in close proximity to residential property, including on the roofs of buildings in town.
48. It is also a relevant consideration that, given my findings on ground 2, the existing fallback, i.e., the existing operational mast, there will likely be no material change in terms of emissions, and, in any event, both the 'old' and the proposed installations would be required to be ICNIRP certified.
49. I conclude that, subject to post-commissioning ICNIRP certification, there are no evidenced concerns that would create any conflict with the relevant health and environmental protection provisions under policies GD1 and SP7. Accordingly, I conclude that ground 1 should fail.

Ground 3 – heritage

50. The appellant alleges that the development would have harmful impacts on heritage assets, which would conflict with the heritage protections set out in BIP policies SP4 and HE1. Specific reference is made to the settings of a Grade 4 Listed house, a Grade 1 Listed German bunker, and to below ground heritage potential (archaeology).
51. The Grade 4 Listed house is known as *St Anastase*⁹ and dates from the late 18th century. However, it is some distance to the south-west (along Le Mont de St Anastase) and there is no clear intervisibility between it and the existing monopole/antenna. Given that the proposed monopole/antenna is of a similar height and appearance to the existing, it would not affect the setting of the Listed house.
52. The Grade 1 Listed bunker¹⁰ is closer to the site, the appellant's agent stating that it is approximately 40 metres to the west of the appeal site. The bunker appears to be in good condition and is now incorporated into a dwelling house curtilage (*Mowbray*). The existing mast can just be glimpsed from the front of this dwelling, but I did not assess that the existing, or proposed, monopole and antenna would fall within the bunker's setting, as defined in the BIP glossary¹¹. Therefore, the proposal would not affect the setting of the Listed bunker.

⁸ It was stated that the test had found less than 1% (actually 0.272%) of the permitted ICNIRP 100% maximum.

⁹ HER reference PE0085

¹⁰ HER reference PE0198

¹¹ Bridging Island Plan (adopted March 2022) – glossary page 359

53. With regard to archaeology, JT confirmed that the new foundation would be shallower but wider than the existing, but would be in already disturbed ground. I questioned the planning authority on whether a watching brief planning condition would be appropriate, should the Minister be minded to confirm the permission, but it advised that as the site did not fall within an area of archaeological potential, such a condition would not be appropriate.
54. In my assessment, the proposal will not affect the settings of Listed buildings and there is no evidence to indicate that the site contains below ground heritage that requires specific planning protection. I find no conflict with the historic environment protections contained within BIP policies HE1 and SP4. This ground of appeal should therefore not succeed.

Ground 4 – natural environment

55. The appellant contends that the existing and proposed developments have had, and will have, harmful impacts on the natural environment, and that this would conflict with BIP policies SP5 and NE1. He explained to me that since the existing pole was installed, a filled bird feeder has not been used by birds, that birds changed direction near the mast, and that he used to see around 10 different squirrels, but they have all gone. He further stated that he used to spend £20 a time on bird and squirrel food. His agent also drew attention to the different approach taken on ecological matters on another application¹² relating to a solar farm.
56. The planning authority confirmed that the Natural Environment Team had been consulted, and it had raised no objection to the proposal.
57. Whilst noting the appellant's submissions, they are anecdotal, and that limits the weight I can attach to them. As Mr Francisco pointed out for JT, wildlife does migrate and change habits, and the appeal site is subject to an ecological management regime, undertaken by experienced and respected ecologists. I must also add my own anecdotal observation from my site inspection. I spent some time alone walking around the fenced enclosure around the base of the mast, and one of my observations was that the surrounding trees and vegetation were alive with bird activity and birdsong. I have reviewed the other application referred to by the appellant's agent, but it is not in the least bit comparable, as it relates to a large-scale solar farm.
58. I have to conclude that there is no authoritative evidence to suggest that the development will cause harmful impacts to the natural environment, and I find no conflict with BIP policies SP5 and NE1.

Ground 5 – landscape character

59. The appellant submits that the mast is harmful to landscape character, 'sticks out like a sore thumb', and should never have been permitted. His agent suggested that landscape impact should be considered afresh and referred to a set of photographs¹³ showing its impact in local views. The

¹² P/2023/0408

¹³ Appellant's Statement of Case – Appendix 12

appellant considers that there is conflict with BIP policies NE3 and PL5 which, respectively, seek to protect and improve landscape character, and the character and distinctiveness of the countryside.

60. However, given my findings on the planning history (ground 2), I share the planning authority's stance that the starting point here is an extant and lawfully implemented planning permission for the existing monopole, and associated equipment and fencing. It is therefore not appropriate to look entirely afresh at landscape impact, as the extant permission is a weighty material consideration. In that regard, there is little substantive difference between the existing and proposed development, in terms of landscape impact. Whilst the proposed scheme has a slightly larger antenna cover top section, the monopole is of a slenderer design, and I do not consider that these minor differences would result in any material net landscape harm, as judged under policies NE3 and PL5. Moreover, the planning authority points out that there is scope to secure better landscaping and screening, although it is not lost on me that, with hindsight, that could also have been achieved on the 2020 permission (rather than the deeply flawed condition 3 that was imposed).

Planning conditions

61. At the Hearing, I held a 'without prejudice' discussion on planning conditions to explore whether, should the Minister be minded to confirm the permission, varied or additional planning conditions might be imposed.
62. The appellant's agent suggested that concerns about health impacts should result in a requirement for ongoing ICNIRP compliance testing, but that is not the accepted practice, and there is no evidence before me to suggest that would be necessary. However, condition 1 is awkwardly worded, and I have included a suggested simpler alternative in my recommendation.
63. For reasons set out earlier in this report, I do not consider that an archaeological watching brief condition is justified in this case.
64. There was some useful discussion about landscaping. In essence, condition 3 requires a more detailed and comprehensive landscape scheme, on top of the landscaping works shown on drawing no. 004 Rev B, much of which has already been put in place through the planting of the Holm Oaks and hedge whips. That approach makes good sense and Mr Francisco for JT agreed that more landscaping could be included. I also suggested that liaison with the nearest householders might help inform some precision planting, to soften some of the impacts from particular private views. No amendment to the condition is required, as it already provides the necessary mechanism to enable these details to be submitted and approved. The condition also appropriately addresses maintenance of the landscaping, and I do not consider the appellant's agent's suggestion of a Planning Obligation Agreement, to cover this matter, to be necessary.
65. There was a consensus that a 'disuse and disrepair' type condition would be justified and sensible, to ensure that any poles and equipment are removed

at the end of their operational life, and the land restored to its former condition.

Conclusions and recommendation

66. For the reasons set out above, I recommend to the Minister that this appeal should be dismissed and that the planning permission granted under reference S/2023/0603 should be confirmed. However, I further recommend some changes and additions to the Decision Notice, which are set out below:

Condition 1 – revise the wording to read '*Within 3 months following substantial completion of the development hereby approved, a post-commissioning test demonstrating that the development is being operated strictly in accordance with the approved plans and the INCNIRP guidelines requirements approved within this permission, shall be submitted to and approved in writing by the planning authority. Thereafter, the equipment shall only be operated within the INCNIRP guidelines.*'

Additional condition 4: *In the event that the development ceases to be required for operational telecommunications purposes, it shall be removed within 6 months of its cessation of operational use, and all equipment and materials, including any foundations and cabling, shall be removed from the site, and the land restored to its former condition.*

Plans list corrections – revise item 2 to read 'Proposed Site Plan and Photos' and item 9 to read 'Landscape Plan and photomontages'.

P. Staddon

Mr Philip Staddon BSc, Dip, MBA, MRTPI

Main appearances at the Hearing

For the Appellant: Mr L'Amy (appellant), Mrs S Steedman (planning consultant)

For the Applicant: Mr A Brown (JT), Mr T Knight (JT), Mr B Francisco (architect), Ms G Duffell (planning consultant)

For the Planning Authority: Mr A Elliot; Ms R Hampson

For the Environmental Health service: Mr R Cragg

Elected representative: Connétable Richard Vibert (attended for part of the Hearing and spoke in support of the appeal).