

Chief Planning Officer

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Application Ref: 252206, Land at Rushton Farm, Warren House Road, RG40 5RG – Response to objection by Cornerstone dated 27 August 2025

We write in response to the objection made by Cornerstone by letter dated 22 October 2025 (“**the Objection**”).

Scope of the Council’s determination

1. When considering the Objection, it is important to have firmly in mind the proper scope of the Council’s determination.
2. Icon’s application (“**the Application**”) is made pursuant to paragraph A.3(4) of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (“**the GPDO**”).
3. By the Application Icon seeks the Council’s determination as to whether the prior approval of the Council will be required ‘*as to the siting and appearance of the development*’. If prior approval is required, Icon seeks a grant of prior approval.
4. As a result, and despite what Cornerstone’s Objection suggests, the only matters for the Council’s consideration and determination are whether the siting and appearance of the proposed development is acceptable.
5. The Objection fails to engage with the critical issues of siting and appearance. Instead, the Objection seeks to advance erroneous arguments on other matters which do not go to siting

and appearance. Such matters are not for the Council's consideration and determination, as already explained.

6. As a result the Objection fails to identify any proper basis for refusing the Application and should be given no weight.

Context to the Objection

7. Cornerstone has failed to explain the context to its Objection which it is respectfully submitted is important to bear in mind as it appears Cornerstone's Objection is a tactical move to assist it in the ongoing litigation mentioned below (in relation to which APW and Icon's position is reserved).
8. Cornerstone is currently engaged in contested renewal proceedings with AP Wireless II (UK) Ltd ("APW"), a group company of Icon, which is due to go to trial in the County Court in due course. Cornerstone has asked for a new lease of the site which APW has opposed.
9. It is not necessary for the Council, as local planning authority, to take a view on the merits of that dispute – which is essentially a commercial dispute between two parties, not a planning matter - in order to determine the Application. However, the following matters are relevant:
 - 9.1. Commercial matters of ownership and occupation are not matters going to the critical issues of siting and appearance. These are private law matters which the Council does not need to determine.
 - 9.2. The Objection appears to be motivated by a desire to stifle the Application for tactical benefit at trial. The failure of the Objection to deal with the key issues of siting and appearance (and instead focus on other matters) is consistent with this motivation: the Objection is not actually concerned about the effects of the proposed development, but is instead aimed at stopping a competitor.

Paragraph 122 of the NPPF

10. Cornerstone asserts that there is a failure to comply with paragraph 122 of the NPPF. This is not correct.

11. Paragraph 122 must be applied (to the extent relevant) by having regard to the nature of the application before the Council – here a prior approval application – and bearing firmly in mind the limited nature of that determination, as already explained.
12. Paragraph 122 starts:

‘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.’
13. Paragraph 122 then explains what this justification ‘should include’ at paragraphs 122(a) – (c). Therefore, compliance with sub-paragraph (a) – (c) leads to the conclusion that the development has been justified.
14. As to paragraphs 122(a) – (c), there is no apparent dispute that sub-paragraphs (a) and (b) have been complied with by Icon. More particularly:
 - 14.1. Sub-paragraph (a) requires the application to include the outcome of consultations with certain persons, where relevant. In this case, no consultation with any of these persons was required given the location of the Site, i.e. the Site is not near a school or college and is not within a statutory safeguarding zone.
 - 14.2. Sub-paragraph (b) requires self-certification under the International Commission guidelines on non-ionising radiation protection. Icon provided that self-certification as part of the Application.
15. Turning to paragraph 122(c), this provides:

‘for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.’
16. This paragraph is only concerned with (and thus only applies to) ‘*a new mast or base station*’. However, in this case, Icon is not proposing a new mast or base station; rather,

Icon is proposing a replacement mast.¹ It follows that this paragraph does not apply to Icon's Application. In these circumstances, there is no failure to comply with paragraph 122(c) and CTIL's Objection is wrong in this respect.

17. Not only is this the correct approach as a matter of the language used in paragraph 122(c), but it is also logical, in particular:

17.1. The purpose of paragraph 122(c) is to ensure that alternative sites have been considered before new sites are developed. This approach minimises the proliferation of masts.

17.2. However, where, as in this case, there is an existing site (and the development is a replacement mast on that existing site) then the issue of proliferation does not arise because the site is already occupied by a mast and thus its replacement will not increase the number (or proliferation) of masts; rather, it will retain the status quo.

17.3. This logic applies even more forcefully when – as in this case – the development is being undertaken by a Wholesale Infrastructure Provider (“**WIP**”). As explained in the Application, Icon is a WIP specialising in providing sites and infrastructure for shared use by network operators. WIPs provide passive infrastructure, e.g. masts, for others to share. WIPs do not provide antennas (i.e. active electronic communications apparatus). It follows that ‘the possibility of erecting antennas on an existing building, mast or other structure’ referred to in paragraph 122(c) is not relevant to WIPs because no antennas are provided. Any contrary approach to paragraph 122(c) would undermine the role of WIPs and would, as a result, undermine the important

¹ This is an important point by reference to the GPDO. Class A of Part 16 of Schedule 2 to the GPDO describes development in three categories (labelled (a), (b) and (c) within Class A). Within the first of these categories, Class A(a), there are three different types of development: (1) the installation of new electronic communications apparatus, (2) the alteration of existing electronic communications apparatus, and (3) the replacement of any existing electronic communications apparatus with new electronic communications apparatus. The Application proposes the third type of development within Class A(a), namely the replacement of the existing mast with a new mast. No development is proposed within the other types of development within Class A(a) (or, for completeness, within Class A(b) or (c) either). Paragraph 122(c) is concerned with new development within Class A(a) not within Class A(b) or (c).

role that the Government wishes WIPs to perform in driving competition and innovation in the sector.

18. It follows that the Application complies with paragraphs 122(a) – (c) of the NPPF (to the extent relevant) and thus the Application has been justified for the purposes of the NPPF.
19. In the alternative, even if paragraph 122 of the NPPF requires some further justification, beyond the matters in sub-paragraph 122(a) – (c), Icon submits that such a justification is apparent here for three reasons.
20. **First**, given the statutory framework and the limited scope of the Council's determination, i.e. restricted to the siting and appearance of the proposed mast, these are the matters which should be justified. Both matters are clearly justified:
 - 20.1. The siting is justified by the reuse of an existing site where the principle of a telecommunications mast has already been accepted; and
 - 20.2. The appearance is justified because a monopole mast has been chosen to replace an existing monopole mast (thus ensuring no noticeable change in structure) and the proposed mast will be galvanized in order to assimilate with the typical sky colour in the UK.
21. **Secondly**, even if the justification is not restricted to matters of siting and appearance (which is an incorrect approach), nevertheless the replacement mast is justified in this case because 5G can only be deployed at 17.5m and above.
22. **Thirdly**, it ought not to be the local planning authority's concern who owns the site and/ or the mast on the site – that is a matter for the County Court. By refusing the planning application on any other grounds strays into the commercial dispute between the parties.
23. For all these reasons, there is compliance with paragraph 122 of the NPPF and the Application is properly justified.

Mobile Network Operators

24. Cornerstone advances various arguments about mobile network operators (“**MNOs**”), how they may act and whether the MNOs need the replacement mast. No weight should be afforded to these arguments which are unevidenced, illogical and contrary to the NPPF.
25. **First**, it is important to note that the Objection is made by Cornerstone individually: it is not made by the MNOs. In this regard, it is notable that Cornerstone seeks to represent the MNOs’ position, but without any authority to make such representations and without any direct evidence from the MNOs. No weight can be afforded to Cornerstone’s speculation as a result.
26. **Secondly**, Cornerstone’s argument is illogical. As Cornerstone confirms in the Objection, two MNOs are currently using the existing mast. It is clear that these MNOs require a mast in this location. This need will not change when the mast is replaced by Icon. There are no other masts near the Site. Accordingly, it is logical that when the mast is replaced, the MNOs will wish to utilise the replacement mast. Indeed, as explained in the Application, the replacement mast is specifically designed to facilitate further sharing and Icon’s business is based on working with MNOs to facilitate their use of Icon’s masts.
27. **Thirdly**, we remind you that pursuant to paragraph 123 of the NPPF:
- 27.1. Local planning authorities must determine applications on planning grounds only;
- 27.2. Local planning authorities should not seek to prevent competition between different operators; and
- 27.3. Local planning authorities should not question the need for an electronic communications system.
28. It is apparent that Cornerstone has ignored paragraph 123 of the NPPF. Through the Objection:
- 28.1. Cornerstone is inviting the Council to determine the Application on the basis of the commercial arrangements which the MNOs may enter into with Icon. These are not planning matters.

28.2. Cornerstone is inviting the Council to refuse the Application to maintain the status quo, to protect its position (and its relationship with the MNOs) and thus to prevent competition between different operators (i.e. competition between Cornerstone as a WIP and Icon as a WIP). The Council must refrain from such matters.

28.3. Cornerstone is inviting the Council to conclude that the replacement mast is not needed. However, there is no requirement, either as a matter of law or policy, for Icon to demonstrate need; and, critically, the Council should not question the need for the replacement mast.

Notification of the Application

- 29. A completed notice pursuant to paragraph A.3(1) of Part 16 of Schedule 2 to the GPDO was given to AP Wireless II (UK) Limited and a copy was enclosed with the Application.
- 30. There is no other person within paragraph A.3(1)(a) or (b) to whom Icon was required to give notice. In particular Cornerstone is not a person within paragraph A.3(1)(a) or (b).
- 31. Further, there was no other reason to consult Cornerstone as the replacement mast will be installed and operated by Icon itself.

Cornerstone's equipment

- 32. Cornerstone suggest that they do not consent to the removal of the existing mast. This objection is irrelevant and not a material planning consideration.
- 33. First, Icon do not need Cornerstone's consent to install the replacement mast. As referred to above, there is ongoing litigation in respect of the Site, and Cornerstone's lease renewal application is opposed to enable the installation of the Proposed Mast.
- 34. Through that litigation, APW is seeking repossession of the Site in order to transfer the Site to Icon for Icon to redevelop the Site in accordance with the Application.
- 35. APW and Icon intend to redevelop the Site to deliver the Proposed Mast and ensure that there is future proofed telecommunications infrastructure serving the local area.

Condition requiring presence of an MNO

36. Finally, Cornerstone's suggestion that an MNO is required (whether by a condition or otherwise) is untenable. In this regard, it is notable that Cornerstone do not pursue the point with any real rigour. It is also fanciful: MNOs clearly wish to locate their electronic communications apparatus at the Site as they are currently at the Site and the Proposed Mast will be attractive for them to continue to do so.
37. There is no scope for a condition to be imposed restricting either the construction or use of the Proposed Mast until an MNO is "committed". Such a condition would be unlawful as it would not relate to the siting or appearance of the Proposed Mast.
38. In any event, such a condition would be unreasonable in the **Wednesbury** sense and thus unlawful because it would impose a requirement that is not found in the GPDO. More specifically, in order for Icon to rely on Class A of Part 16 of Schedule 2 to the GPDO, it is not necessary for Icon to identify a MNO as part of an application pursuant to paragraph A.3(4). There is no part of the GPDO which supports that contention and, notably, none is identified by Cornerstone.

Conclusion

39. For these reasons, the Objection discloses no basis for refusing the Application. The Application should be determined without delay to allow the Proposed Mast to be constructed.