

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

**Town and Country Planning (General Permitted Development) (England)
Order 2015 - Schedule 2, Part 16**

**DELEGATED DECISION FOR DISCHARGE OF CONDITION -
NOTIFICATION OF TELECOMMUNICATIONS DEVELOPMENT**

Reference no.	2021/N /92175/E
Site Address	Wakefield Road, Earlsheaton, Dewsbury, WF12 8AH
Description	Prior notification for proposed 18.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works
Recommending Officer	Callum Harrison

DECISION – PRIOR NOTIFICATION REFUSED

**I hereby authorise the refusal of this application for the reasons set out
in the officer's report and recommendation annexed below in respect of
the above matter.**

Paul Dowd

AUTHORISED OFFICER

Date: 22-Jul-2021

Officer Report

Site: Wakefield Road, Earlsheaton, Dewsbury, WF12 8AH

Proposal: 2021/92175 - Prior notification for proposed 18.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works

Site Description

The site relates to a part of the public footpath of the south side of Wakefield Road. Wakefield Road is a classified Primary A Road, with the road number A638. The location of the apparatus would be close to the junction with Park View. The pavement has an average width of 4.5m at this point. The site is bounded by highway to the north and west, and a health centre and its car park to the south and east. Dwellings can be found across the highway to the north-east. The wider area is primarily residential with only a handful of commercial units in the area, which are mostly services.

Description of Proposal

The mast would have an overall height of 18m, to include a single antenna and would be used by a single telecommunications operator. The mast is to have a 'wrap around' cabinet base, measuring 1.8m in overall height, 1.8m in width and 0.8m in depth. The mast excluding the base cabinet would have a diameter of 0.4m.

Two cabinets and a G-100876 cabinet are shown on plan but are Permitted Development, without needing prior notification, therefore not forming part of the application.

Relevant planning history

None at the application site.

Procedural Matters and Policy Context

The above-described proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development Order 2015, Schedule 2 Part 16 Class A permits the following development:

Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, 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 electronic communications apparatus,
- a) the use of land in an emergency for a period not exceeding 6 months to station and operate moveable electronic communications

- apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or
- b) development ancillary to radio equipment housing.

The proposal is considered covered within this Class, and is thus authorised subject to the restrictions, conditions and prior notification procedure outlined in Paragraphs A.1, A.2 and A.3 (as amended by The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016).

Subsection 1: ground-based apparatus	
(a) in the case of the installation of electronic communications apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;	Pass: The height of the equipment excluding the mast and antenna, would be below 15m.
(b) in the case of the alteration or replacement of electronic communications apparatus (other than a mast) that is already installed, the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;	N/A: The proposal seeks a new installation.
(c) in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of— (i) 25 metres above ground level on unprotected land; or (ii) 20 metres above ground level on article 2(3) land or land which is on a highway; or	Pass: The site is on the highway but is not within article 2(3) land. The mast's height excluding the antennae would not exceed 20m
(d) in the case of the alteration or replacement of a mast, the mast, excluding any antenna, would when altered or replaced— (i) exceed the greater of the height of the existing mast or a height of— (aa) 25 metres above ground level on unprotected land; or (bb) 20 metres above ground level on article 2(3) land or land which is on a highway; or (ii) Together with any antenna support structures on the mast, exceed the	N/A: The proposal seeks a new installation.

width of the existing mast and any antenna support structures on it by more than one third, at any given height.	
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The proposal has been assessed to comply with Paragraph A.1. Thus, the proposal is authorised via Class A, subject to the conditions and restrictions outlined in Paragraph A.2 and Paragraph A.3.

Paragraph A.2 outlines a set of five conditions that the developer must adhere too. Condition (4) stipulates the need for the developer to comply with paragraph A.3, which includes the requirement to submit an application for Prior Notification from the Local Planning Authority. Prior Notification is required for the following considerations:

- Siting
- Appearance

Furthermore, under the procedures outlined in paragraph A.3, the council is required to consult relevant bodies and advertise the application.

Relevant Policy

Kirklees Local Plan

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is without notation on the Kirklees Local Plan proposals map.

- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP21** – Highway safety
- **LP24** – Design

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 20th July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications.

- **Chapter 10** – Supporting high quality communications

- **Chapter 11** – Making effective use of land
- **Chapter 12** – Achieving well-designed places

Representations

The application was advertised in accordance with the requirements of Subsection A.3, 6(d) of Schedule 2, Part 16, Class A of the General Permitted Development Order 2015. Publicity expired on 21st July 2021. No representations were received.

Consultations

K.C. Highways Development Management (informally) – No objections to the scheme, as acceptable sight lines can be achieved, and the footpath is particularly wide at this point.

Assessment

As per Part 16, Class A, A.3(3), the following matters are considered in the assessment below –

- 1) Siting and Appearance
- 1) Representations
- 2) Conclusion

1) Siting and Appearance

1.1 – Sequential approach, land allocation and visual amenity

The proposal is to provide new 5G services for a single operator. The supporting document demonstrates the necessary cell search area where the proposed cell must be located to fit into the network. Cells must be strategically located to form a 'patchwork of coverage' as the network expands.

Within an identified cell search area, the NPPF establishes the following sequential approach when looking to installed new telecommunication equipment:

1. Mast and site sharing
1. Existing buildings structures
2. New ground-based installations

In this instance, the applicant has provided a sequential test contained within the Site-Specific Supplementary Information document. There is a requirement to upgrade the UK H3G (Three) network to provide improved coverage and capacity. The Supplementary Information states that Three are in the process of building out the UK's fastest 5G network. Three has 140MHz of 5G spectrum (and 100MHz of it contiguous), which means that their service will be much faster and able to handle more data. However, to bring this new technology to the people CK Hutchison Networks (UK) Ltd will need to provide

a mix of upgrades to existing sites and the building of new sites. New sites will be needed for many reasons, including that the higher radio frequencies used for 5G do not travel as far as those frequencies currently in use and that sometimes not all existing sites can be upgraded. In this area there is an acute need for a new mast to deliver the above.

The nature of 5G and the network services it provides, means the equipment and antennas required are quite different to the previous, and existing, service requirements. In particular, the nature of the antennas, and the separation required from other items of associated equipment, is such that it cannot utilise some existing structures that provide an installation for another operator, most notably in a street works or highways environment.

In this case, eight options for the location of the telecommunications mast have been explored within the local vicinity. Reasons as to why these sites were dismissed include: insufficient pavement width, proximity to dwellings, tree matters, accessibility issues, proximity to pedestrian crossings and proximity to Dewsbury Town Centre Conservation Area. This information was not shared with the Local Planning Authority as part of the 'pre-application consultation process'. The shortcomings of this pre-application consultation are expanded later in this report.

Officers note that the mast is to be erected on the public footpath by the junction of Wakefield Road and Park View. In the submitted documents, the agent states that they have 'considered the detailed siting and design carefully to ensure that the scheme has a limited impact on the locality and general visual amenity.' And that they 'have carefully placed and designed the scheme to ensure the principles of good siting and appearance are adhered to. The overall impact of the installation on the environment is limited.' Officers dispute this, given the applicant could have hardly found a more prominent position than highway land of a Primary A Road. The site, despite being set near to a health centre and petrol station, is also set within a primarily residential area. Given this, it can be stated that the mast is in a highly prominent position. The 18m high mast will effectively double the height of any built form in the area given that the buildings and existing street furniture do not appear to exceed approx. 9m. The trees referenced on the submitted drawings are 17m away from the application site, nevertheless these trees do not exceed 11m. Therefore, the proposed 18m height of the mast will mean it would appear incongruous in the street scene where existing development is relatively low level. The steel grey colour also would not appear aesthetically pleasing in the street scene. Whilst officers note the existing lampposts are grey, these are very slim in comparison to the proposed mast. A more modern, less industrial colour should be used, nevertheless whatever colour is used would not overcome the incongruous size and siting of the mast.

This viewpoint is reinforced by the appeal decisions APP/Q3305/W/17/3185165 and APP/T0355/W/20/3265640 whereby 15m masts (3m smaller than those proposed) were deemed incongruous given the unsympathetic design, which includes the height. The overall size of the mast would appear incongruous in this area, which is primarily residential with low

level development. The design can thus not be considered in keeping with the townscape as required by policy LP24 of the Kirklees Local Plan. Whilst officers note that similar proposals have been considered acceptable regarding visual amenity within Kirklees, none of these have been set within such a strongly formed residential area but have been approved in more commercial area.

Whilst the size of the mast would mean it would be seen from a good distance away from the application site, it would not materially impact on the setting of any conservation areas or listed buildings.

Concerns regarding the siting and appearance of the mast would have been raised during the pre-application consultation stage, however, in this case, the application was subsequently submitted five days after the date of a letter inviting the Local Planning Authority to comment on the proposal. This did not allow for 14-days to comment on the proposal and implied that the Council, whilst offered the chance to comment on the proposal, had not done so. This matter has been raised directly with the applicant on previous occasions relating to similar applications. Officers therefore did not provide the applicant with a formal pre application response but simply stated 'the proposal does not conflict with any existing approvals and neither do I think any non-statutory consultees need to be consulted.' This short response was informal, given the prior notification had already been submitted. Advice in the NPPF at para 117 states that applications for electronic communication development should be supported by the necessary evidence to justify the proposed development. This should include: (inter alia) 'the outcome of consultations with organisations with an interest in the proposed development'. This was not possible as the applicants did not wait for a reasonable consultation period to elapse.

Overall, whilst significant weight has been given to telecommunications development by the NPPF, for the reasons given, the proposed siting and appearance of the proposed mast would be unduly harmful to the visual amenity of the area and would be in breach of Policy LP24a of the Kirklees Local Plan.

1.2 – Impact on Residential Amenity

The mast would be located 25m away from the closest dwelling, with no dwellings facing directly towards the mast or set adjacent to it. Therefore, whilst a mast of this scale in this location would somewhat overbear these neighbouring properties, given this separation distance, and the oblique angle of the dwellings, on balance, any overbearing and overshadowing on balance, is not considered to detrimentally impact upon these neighbours' amenity.

1.3 – Impact on Highway Safety

KC Highways DM haven been informally consulted as part of this application. Given that the mast would be set where the pavement is 4.8m wide, Highways DM have no objections whatsoever. Whilst the mast is set near a

bus stop and bin, these are further to the south east, thus, the mast will not impact on these. The mast will also not obscure any sight lines given the setting back from the highway. Therefore, the proposed development is not considered to have an adverse effect on highway safety or the function of the public highway in general.

2) Representations

Following the publicity, no representations were received.

3) Conclusion

The principle of development is established by the General Permitted Development Order 2015 (England) (as amended). However, in accordance with prior notification procedure of A.2, an assessment of the proposed development's siting and appearance has been undertaken.

For the reasons outlined above, it is considered that the siting and appearance of the development would cause material harm to the built environment, contrary to the aims and objectives of policy LP24a of the Kirklees Local Plan and chapters 10 and 12 of the NPPF.

Recommendation: Refuse Prior Consent

Decision Authorisation - Delegated Powers**Application Number:** 2021/92175**Officer Recommendation:** REFUSED PRIOR APPROVAL**Reason for Refusal**

1. The proposed mast, by reason of its siting, size and appearance in regard to form and colour would be a visually intrusive and incongruous feature in the streetscape appearing wholly out of scale with the surrounding residential properties and failing to respect the character of the area. The proposed siting and appearance of this mast would be contrary to Policy LP24a of the Kirklees Local Plan and chapters 10 and 12 of the National Planning Policy Framework.

Plans and specifications schedule:

Plan Type	Reference	Version	Date Received
Existing Elevations	150	1	26/05/2021
Existing Site / Block Layout	100	1	26/05/2021
Location Plan	002	1	26/05/2021
Proposed Elevations	303	1	26/05/2021
Proposed Elevations	260	1	26/05/2021
Proposed Site / Block Layout	210	1	26/05/2021
ICNIRP Certificate	KKS17526-3UK_ICNIRP	1	26/05/2021
Covering Letter	KKS17526 GDPO Covering Letter	1	26/05/2021
Covering Letter	KKS17526 Site Provider Letter England	1	26/05/2021
Supp Info	KKS17526 Developers Notice England	1	26/05/2021
General	305 EQUIPMENT SCHEDULE & SUPPORT STRUCTURE DETAILS	1	26/05/2021
General	KKS17526 SSSI NEW SITE 2020 England v7	1	26/05/2021