

**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.        | <b>2021/N /94296/E</b>                                                                                                                                                               |
| Site Address         | <b>Lane Head Road, Shepley,<br/>Huddersfield, HD8 8DB</b>                                                                                                                            |
| Description          | <b>Prior notification for the<br/>installation of a 16.0m Phase 8<br/>Monopole C/W wrapround Cabinet<br/>at base and associated ancillary<br/>works (within a Conservation Area)</b> |
| Recommending Officer | <b>Callum Harrison</b>                                                                                                                                                               |

**DECISION - 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.**

Kevin Walton

***AUTHORISED OFFICER***

**Date: 05-Jan-2022**

## **Officer Report**

**Site:** Lane Head Road, Shepley, Huddersfield, HD8 8DB

**Proposal:** 2021/N/94296/E - Prior notification for the installation of a 16.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works (within a Conservation Area)

## **Site Description**

The site relates to a part of the adopted highway to the east side of Lane Head Road, an adopted primary A road classified as the A629. The location of the apparatus would be on the grass verge between the pavement and road.

## **Description of Proposal**

The mast would have an overall height of 16m, 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 to be 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).

| <b>Subsection 1: ground-based apparatus</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                            |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| (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;                                                                                                                                                                                                                                                                                                                                                                             | <b>Pass:</b> 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;                                                                                                                                                                                                                                           | <b>N/A:</b> 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—<br>(i) 25 metres above ground level on unprotected land; or<br>(ii) 20 metres above ground level on article 2(3) land or land which is on a highway; or                                                                                                                                                                                                                                                                                                        | <b>Pass:</b> 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—<br><br>(i) exceed the greater of the height of the existing mast or a height of—<br>(aa) 25 metres above ground level on unprotected land; or<br>(bb) 20 metres above ground level on article 2(3) land or land which is on a highway; or<br><br>(ii) Together with any antenna support structures on the mast, exceed the width of the existing mast and any antenna support structures on it by more than one third, at any given height. | <b>N/A:</b> The proposal seeks a new installation.                                                                                         |

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 (3) 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 all planning determinations 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 Policies Map but is set within the Shepley Conservation Area.

- **LP3** – Location of new development
- **LP7** – Efficient and effective use of land and buildings
- **LP21** – Highway safety
- **LP24** – Design
- **LP35** – Historic Environment

#### **National Policies and Guidance**

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 19th February 2019, 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
- **Chapter 16** – Conserving and enhancing the historic environment

### 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. One representation was received. This objection was based upon safety and visual amenity grounds.

### **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, nine options for the location of the telecommunications mast have been explored within the local vicinity. Several options were discounted due to residential amenity issues and insufficient pavement widths, whilst proximity to a cycle path, limited space and impact on visibility splays made up the rest of the reasons for the other sites being discounted. 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.

The new mast and equipment is to be installed on the highway land to the east side of Lane Head Road. The applicant has outlined within their supplementary information 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. They state that the site benefits from some screening provided by the surrounding trees and shrubs while tall street furniture, particularly tall streetlights and telegraph poles will enable the equipment to blend into the street scene. This statement, which has been echoed on all applications the local planning authority have recently received from the same applicant irrespective of location, is misleading in this instance. Officers disagree with this finding and whilst the mast is to be a slim pole design which will support antenna, it would be of a height substantially above and beyond anything else in the street scene. The agent has claimed the pole would be screened by trees and shrubs. There are some trees/hedges to the east between the site and dwellings, however this will not screen the mast whatsoever when viewing from public land. The streetlights and telephone poles are of a standard size and found in a limited quantity meaning these do not offer any value to screen or integrate the proposed development. The siting is also extremely cramped on a very narrow verge between the pavement and highway and to the front elevation of principle dwellings. The cramped siting on unscreened highway land will lead to the 16m mast to appear incongruous in the street scene. The siting of such a tall mast and all the associated equipment directly in front of the dwellings is also not in the grain of the street scene. The mast which will also have a significant amount of equipment around its base heightening its incongruous utilitarian impact within this predominantly residential area which is wholly contrary to Local Plan policy LP24 and Chapter 12 of the NPPF.

This viewpoint is reinforced by the appeal decisions APP/Q3305/W/17/3185165 and APP/T0355/W/20/3265640 whereby 15m masts were deemed incongruous given the unsympathetic design, which includes the height. The overall size and poor siting of the mast would mean the development would appear incongruous in this area, which is primarily

residential with low level development. The steel grey colour also would not appear aesthetically pleasing in the street scene. 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 in regard to visual amenity within Kirklees, none of these have been set on very prominent, unscreened highway land within such a strongly formed residential areas.

The site is set within the Shepley Conservation Area which further exacerbates the issues mentioned above. The siting in such an extremely prominent location, in a tight setting and directly in front of the principal elevation of dwellings cannot be considered to 'conserve those elements which contribute to their significance.' as required by Local Plan policy LP35. The mast, by virtue of the siting, design and visual harm will detract from the Shepley Conservation Area. For this reason, in regard to impact on the visual amenity of the Conservation Area, the proposal is wholly contrary to Local Plan policy LP35 and Chapter 16 of the NPPF also.

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 just four 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. Given that the pre-application and prior notification application had been submitted a mere four days after the pre-application request, we did not have chance to allocate the enquiry, let alone formulate a response. Advice in the NPPF at para 115 states that application 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 National Planning Policy Framework, for the reasons given, the proposed siting and appearance of the proposed mast would be unduly harmful to the visual amenity of the street scene and Conservation Area setting and would be in breach of Policies LP24a and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the NPPF.

## 1.2 – Impact on Residential Amenity

Local Plan policy LP24 states that proposal should ensure a good standard of amenity for neighbouring occupiers. The mast would be location on highway land to the front of three dwellings which form a terrace. The mast and equipment would be located a mere 14m directly in front of these dwellings. The erection of a 16m mast, along with all the associated equipment would without question overbearing to the dwellings given the close proximity of the

mast to their principal elevations. It is wholly unacceptable to site such a large piece of equipment so close directly to the front of dwelling. Officers note the trees/shrubbery between the dwellings and the application site, however not only would the mast appear significantly above these, the trees and shrubbery are not protected, not of a great age or quality meaning they cannot be given much weight in regards to how they would prevent the impact of the mast on the dwelling. Overall, whilst significant weight has been given to telecommunications development by the National Planning Policy Framework, for the reasons given, the proposed siting of the proposed mast so close to residential dwellings would be unduly harmful to the residential amenity of nearby dwellings in regard to overbearingness and is clearly and wholly contrary to policy LP24 of the Kirklees Local Plan.

### 1.3 – Impact on Highway Safety

Given that the mast would be set where the highway land is wide and it will not narrow the surfaced pavement, the proposal would not impact on pedestrian use. The mast will also not obscure any sight lines given that it is set 2m+ back from the vehicular 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

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. One representation was received. This objection was based upon safety and visual amenity grounds. These have been noted.

### 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 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 street scene, Shepley Conservation Area and residential amenity of dwelling nearby, contrary to the aims and objectives of LP24 of the Kirklees Local Plan and Chapter 12 of the NPPF.

**Recommendation: Refuse Prior Consent**

**Decision Authorisation - Delegated Powers****Application Number:** 2021/94296**Officer Recommendation:** REFUSE 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 siting, size and appearance would also fail to conserve or respect the character of the Shepley Conservation Area setting as required by Local Plan policy. The proposed development would therefore be contrary to Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning policy Framework.
2. The proposed mast, by reason of its siting, size and appearance would not ensure a good standard of amenity for neighbouring occupiers. The siting of a 16m mast in such a close proximity to the principal elevation of dwellings would appear overbearing and cause undue harm. To permit the development would be contrary to Local Plan policy LP24 with regard to the impact on the residential amenity of neighbouring occupiers.

**Plans and specifications schedule: -**

| <b>Plan Type</b>             | <b>Reference</b>                  | <b>Version</b> | <b>Date Received</b> |
|------------------------------|-----------------------------------|----------------|----------------------|
| Existing Elevations          | 150                               | 1              | 12/11/2021           |
| Existing Site / Block Layout | 100                               | 1              | 12/11/2021           |
| Location Plan                | 001                               | 1              | 12/11/2021           |
| Proposed Elevations          | 260                               | 1              | 12/11/2021           |
| Proposed Site / Block Layout | 210                               | 1              | 12/11/2021           |
| ICNIRP Certificate           | KKS18557_ICNIRP                   | 1              | 12/11/2021           |
| Covering Letter              | KKS18557 GDPO Covering Letter     | 1              | 12/11/2021           |
| Covering Letter              | KKS17095 Site Provider Letter     | 1              | 12/11/2021           |
| General                      | KKS18557 NEW SITE 2020 England v7 | 1              | 12/11/2021           |
| Supp Info                    | KKS17095 Developers Notice        | 1              | 12/11/2021           |

|          |         |  |  |
|----------|---------|--|--|
| KKS17095 | England |  |  |
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Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Given the proposal was a prior notification and the issues relate to the siting, there were no possible amendments what could be made to overcome the issues under the scope of this notification procedure.

**Report Dated: 06/01/2021**