

**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. 2023/N /90052/W**

**Site Address land at, Wood Lane, Newsome,  
Huddersfield, HD4 6PH**

**Description Prior notification for proposed 5G  
telecoms installation: H3G 15m  
street pole and additional  
equipment cabinets.**

**Recommending Officer William Simcock**

**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: 23-Feb-2023**

## **APPLICATION 2023/90052 LAND AT WOOD LANE, NEWSOME**

### **THE SITE**

The site consists of land within the public footway located on the west side of the junction of Longley Lane and Lowerhouses Lane, at the point where Fanny Moor Road and Wood Lane join it from the south-west and north-west respectively. Immediately to the west is an area of maintained grassland. Other than this, the surroundings consist of housing, built in a variety of styles, with 19<sup>th</sup> Century and earlier housing (including a number of Listed Buildings, one of which is Grade II\*) to the west and north of the site, and more modern housing built as a ribbon development to the east.

### **THE PROPOSAL**

#### *The Scheme*

The applicant is seeking Prior notification for a proposed 5G telecommunications installation, consisting of a H3G street pole of 15m in height and additional equipment cabinets.

The ground-based equipment cabinets would be arranged in a row to the south of the proposed pole 1.4m distant from its base. The largest of the three cabinets would be 1.7m in height and their combined length would be 3.2m. They would be coloured RAL 7035.

The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 amended part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 on 4<sup>th</sup> April 2022 and are the regulations against which this application is submitted.

#### *Supporting Information*

In addition to the submitted plans the following documents have been submitted to support the application:-

- Planning statement;
- Copy of Developer's Notice served 06-Jan-2023;
- ICNIRP certificate 13-Dec-2022;
- Department for Digital, Culture, Media and Sport letter "collaborating for digital connectivity";
- Mobile UK Briefing Note on 5G and Health.

### **PLANNING HISTORY**

There is no planning history for the site and its immediate vicinity that is considered to be relevant.

## **REPRESENTATIONS**

Publication of the application has been undertaken in accordance with the Table 1 of the Kirklees Development Management Charter. As such, this application has been publicised by site notice. The expiry date of the publicity period was the 07-Feb-2023.

### *Letters of Objection*

19 individual objection letters plus a web petition (54 signatures).

Summary of grounds of objection:

- Visual impact;
- Impact on character of Listed Buildings, including the Grade II\* Listed Longley Old Hall;
- Concerns about radiation;
- Noise;
- Impact on Longley Woods Nature Reserve;
- There is already a mast at the corner of Hall Cross Road;
- Lack of need since coverage is already adequate;
- Possible drop in house values;
- Detrimental impact upon local bed & breakfast;
- Children play on the grassed area and may climb on the mast and cabinets;
- Paragraph 61 of the Code of Practice for Wireless Network Development in England which states 'the design and siting of equipment should, as far as possible, avoid or minimise impacts on local context and character, and the significance of heritage assets or their setting'.
- It is unclear whether the Little Angels Nursery and Out of School Club has been consulted;

- Lack of clarity in supporting statement about why some sites have been ruled out. “D1 is discounted because it is ‘very residential’, but the chosen location is only three metres away and is equally residential. D2 is right outside the Grade II\* listed Longley Old Hall, but this fact is not mentioned (see below). D6 is discounted because of unsuitable pavements and again being in a residential area, but no mention is made of the existing mast at this site”

#### *Letters of Support*

None

#### *Letters of Comment*

None

### **CONSULTATIONS**

The following consultations have been undertaken for this application with the summarised responses listed below.

**Kirklees Council Highways DM Team** – Did not respond.

**Kirklees Council Conservation & Design Team** – Recommend refusal.

The responses of the above consultees are discussed in greater length within the ‘Assessment’ section of this report.

### **PROCEDURAL MATTERS AND POLICY CONTEXT**

The proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. Class A of Part 16 of Schedule 2 of The General Permitted Development (England) Order 2015 (as amended), 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,
- b) the use of land in an emergency for a period not exceeding 18 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

c) 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 of the Town and Country Planning (General Permitted Development) Order 2015 (England) (as amended).

Paragraph A.1 is broken down into 10 subsections, covering a wide array of communication-based development. Subsection 1 – ‘ground-based apparatus’ is relevant to the proposed development.

<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 would not exceed 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)30 metres above ground level on unprotected land; or (ii)25 metres above ground level on article 2(3) land or land which is on a highway	<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 either of the two thresholds.
(d) in the case of the alteration or replacement of a mast, the height of the mast, excluding any antenna, would when altered or replaced exceed the greater of the height of the existing mast or a height of – (i) 30 metres above ground level on unprotected land; or (i) 25 metres above ground	N/A: The proposal seeks a new installation.

level on article 2(3) land or land which is on a highway; or	
(e) in the case of the alteration or replacement of a mast –  (i) The mast is on any land which is, or is within a site of special scientific interest, and The mast would, when altered or replaced, exceed the original width of the mast by more than one third.	<b>N/A:</b> The proposal seeks a new installation which is not located on any land that is within a site of special scientific interest.

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 of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022.

Paragraph A.2 outlines a set of five conditions that the developer must adhere to. 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 by site notice. These steps have been undertaken.

The application is for a telecommunications notification for approval of siting and appearance, and is not an application for planning permission. Notwithstanding this fact, insofar as it relates to siting and appearance local and national planning policy is used as a frame of reference against which to assess this proposal.

Local guidance and policy is provided by the Kirklees Local Plan as such the following legislation, policy and guidance is considered most relevant to the determination of this application:-

*Kirklees Local Plan*

- LP1 – Achieving sustainable development
- LP2 – Place Shaping
- LP3 – Location of new development
- LP4 – Providing Infrastructure

LP7 – Efficient and effective use of land and buildings  
LP21 – Highway Safety  
LP22 – Parking  
LP24 – Design  
LP35 – Historic environment.

### *National Planning Policy*

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 2 – Achieving sustainable development  
Chapter 4 – Decision-Making  
Chapter 10 – Supporting high quality communications  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-design places  
Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 – Conserving and enhancing the historic environment.

### *Legislation*

The Town and Country Planning (General Permitted Development) Order 2015 (as amended)

## **ASSESSMENT**

The site is within land designated as Strategic Green Infrastructure Network (SGIN) on the Kirklees Local Plan (KLP). It is considered that the scale and nature of the proposal would not affect the continuity of the network, cycling and walking routes, or biodiversity (highlighted in Policy LP31). The designation of the land as SGIN is therefore considered to carry no significant weight in this instance.

Policy LP1 of the KLP states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in chapter 2 of the National Planning Policy Framework.

Policy LP2 sets out that all development proposals should seek to build on the strengths, opportunities and help address challenges identified in the Local Plan. Policy LP24 of the KLP is relevant and states that “good design should be at the core of all proposals in the district”.

Principle Policy LP4 of the Kirklees Local Plan is relevant to the consideration of this application and sets out that “desirable infrastructure” is described as infrastructure which would improve the capacity and deliver place making benefits. This policy sets out that the council will work with partners to bring forward the necessary and proportionate desirable infrastructure.

Chapter 10 of the NPPF sets out that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time.

Paragraph 115 of the NPPF sets out that where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

Paragraph 117 sets out that for a new mast or base station, evidence should be provided 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. In relation to how Local planning authorities must determine applications paragraph 118 of the NPPF sets out the determination must be on planning grounds only, not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

The application has been submitted with an ICNIRP certificate which details that the impact upon health would not be over and above that which is recognised as being acceptable according to current guidelines.

The granting or withholding of Prior Approval will therefore depend upon an assessment of highway safety, siting and appearance, undertaken in detail under the sub-headings below.

### *1. Highway Safety*

Section 9 ('Promoting sustainable transport') of the Government's National Planning Policy Framework document is relevant together with policies LP21 and LP22 of the Kirklees Local Plan and relate to access and highway safety and parking provision for new development. The Council's adopted Highways Design Guide SPD s also considered to be of relevance.

The proposal would see the siting of equipment cabinets and telecoms monopole at the rear of the pavement upon the adopted highway.

The public footway is unusually wide at this point. It is therefore considered that the development would not significantly affect pedestrian safety or convenience. Furthermore, junction visibility is good and the proposal is not considered to impede visibility for either motorists or pedestrians.

It is considered that in this case, notwithstanding that there has not been a response of the Highways DM Team, it would be unreasonable of the LPA to refuse the siting of the proposal on the basis of impact upon access and highway safety. The proposal is therefore concluded to be acceptable in this regard and in accordance with the aforementioned policies.

### *1. Siting and appearance*

Section 12 ('Achieving well-designed places') of the Government's National Planning Policy Framework document is relevant, in particular paragraph 130. Policy LP24 of the Kirklees Local Plan is considered to be of relevance to the consideration of this notification. Paragraph 11.8 of the Kirklees Local Plan, forming part of the policy justification to LP24, sets out that all telecommunications infrastructure should be capable of accommodating changes in technological requirements, without having a negative impact on the streetscene.

The application site is not within a Conservation Area. It is however within the immediate setting of several Listed Buildings which include, Grade II\* Longley Old Hall, Grade II 197-201 Longley, Grade II 191 Longley, Grade II 175-177 Longley and Grade II 161 and 165 Longley. The buildings form part of the historic core of Longley, which are all clustered around a key turnpike. Views of the Grade II\* Hall, although impeded by a high hedge, can be glimpsed from the site.

The proposed site is part of a large, grassed area, which includes some immature trees, with a front projecting pavement. To the rear of the pavement and the front of the grassed area there is an existing late 20th century lamppost and a more recent bus shelter. The concrete lamppost while being tall does not have a significant impact on the character of the area. The bus shelter is a more visibly modern feature, and is more prominent due to being painted red, and as such has a somewhat negative impact on local character.

The proposed monopole as noted would be 15m high, which is considerably higher than the lighting column. This would create a large alien feature in the street scene and the associated cabinets would create additional visual clutter. In the absence of Listed Buildings in the vicinity of the site, the impact on the visual character of the area would not necessarily indicate a refusal. It is however considered that the proposed development would have a negative impact upon the setting of several Listed Buildings, those specified earlier in this section of the report.

The submitted statement does not appear to consider chosen placement of the monopole in relation to the setting of the Listed Buildings. It is also

considered that the reasons presented for the locations which have been discounted are not fully substantiated (see “officer comments on site selection process” below). In short, thorough and convincing justification for the proposed location has not been submitted.

The proposal is therefore not considered to be acceptable in terms of its visual impact, and would not accord with the aims of Policy LP24(a) and 35 of the Kirklees Local Plan, the advice contained within Chapters 12 and 16 of the NPPF, or the Council’s duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that Local Planning Authorities must, where a development proposal would affect a Listed Building or its setting, have special regard to the desirability of preserving the building and its setting, and any features of interest it possesses.

### *3 - Health*

Issues relating to health including, actual and perceived risks to health are material planning considerations. However, in respect to telecommunications equipment and health, it is the Government’s firm view that the planning system is not the place for determining health safeguards; if a proposed mobile station meets ICNIRP guidelines for public exposure, it should not be necessary for the Local Planning Authority to consider further health aspects and concerns about them. The applicant has confirmed that the proposal would conform to ICNIRP Public Exposure Guidelines and given the fact this proposal relates to a prior notification application it is considered that this matter is not a material consideration relevant to the determination of this application.

### *4 - Officer comments on site selection process*

The applicant has set out the site selection process on page 7-9 of the supporting statement. The options of mast / site sharing and placement on an existing building – (a) and (b) in the standard sequential approach have not been explicitly addressed. The applicant has subsequently clarified that there is only one mast in the area, which is not a shareable structure, and there are no suitable rooftop sites. The case officer would concur with the latter point since the surrounding development is residential and low-rise with no large apartment blocks.

On this basis, it would appear that a new mast – option (c) in the sequential approach – is the only one that is reasonably practicable.

The applicant has detailed alternative sites / options and why they have been discounted. These are summarized below with officer comments:

D1 – Very close to the proposed location on Fanny Moor Lane. Ruled out because “very residential with insufficient pavement width”.

*Comments:* The pavement is approximately 2.3m wide at this point and the placing the mast and cabinets here would significantly narrow it, to the

extent that it would be harmful to pedestrian safety. The same heritage concerns would apply (see below) as would to the chosen site.

D2 – Also on Fanny Moor Lane. Deemed unsuitable because pavement too narrow.

*Comments:* The pavement widens at this point but as the location is also very close to the entrance to a shared unadopted access track, it could affect visibility. Also, it would not be any better than the chosen option in its impact on heritage assets.

D3 – Fanny Moor Crescent. Discounted because area behind bollards is unlikely to be adopted.

*Comments:* It is unclear why the unadopted status of the land provides grounds for ruling it out. The land belongs to Kirklees Council. The developer might have to lease the land from the Council, which they would not if it were within the adopted highway. This does not necessarily mean, however, that the land is functionally unsuitable for the installation of a mast.

D4 – New Laithe Road, discounted because of overhead communications lines and sloping ground.

*Comments:* These factors are noted, and it is accepted that the presence of communications lines is likely to pose significant constraints.

D5 – New Laithe Road, at junction with Fanny Moor Lane. Ruled out because of “unsuitable pavements and visibility splay issues”.

*Comments:* The pavement is approximately 1.5m wide at the junction, widening to approximately 2.5m further south. It is accepted that the reduction in available footway width could be harmful to pedestrian safety and that it might also affect junction inter-visibility.

D6 – Lowerhouses Lane, near to junction with Hall Cross Road. Ruled out because of “unsuitable pavements” and being in a residential area.

*Comments:* There is already a mast on the northern side of the junction. It could be argued that the erection of a second mast in such close proximity would amount undesirable visual clutter and therefore would not be ideal from the point of view of visual amenity. It would not however cause harm to any designated heritage assets and therefore, from an aesthetic point of view, is not considered to be any worse than the location chosen. The observation that it is in a residential area is noted, although the same can be said of the other shortlisted sites, so it is not clear why this provides grounds for ruling it out.

In conclusion, whilst some of these sites do appear to be functionally unsuitable, it is considered that the submitted information does not conclusively demonstrate that all of them are. Even if it could be demonstrated that there are legitimate planning or operational reasons for rejecting all of the above sites, this does not conclusively prove that there are no possible alternative sites within the area of search that have not yet been explored.

## *Letters of Objection*

19 individual objection letters plus a web petition (54 signatures) have been received. The concerns raised are summarised below with officer responses:

- Visual impact; Impact on character of Listed Buildings, including the Grade II\* Listed Longley Old Hall;

**Comments:** These concerns are considered to be substantiated in this instance.

- Concerns about radiation;

**Comments:** The applicant has confirmed that the proposal would conform to ICNIRP Public Exposure Guidelines. It would therefore not be appropriate for the Local Planning Authority to take into account public concern about health risks as a material consideration.

- Noise;

**Comments:** Kirklees Environmental Health were informally consulted and confirmed that in their view, noise emissions were unlikely to occur at a level to cause loss of amenity.

- Impact on Longley Woods Nature Reserve;

**Comments:** This concern is considered to be unsubstantiated.

- There is already a mast at the corner of Hall Cross Road; Lack of need since coverage is already adequate;

**Comments:** Local Planning Authorities, in assessing applications of this type, are not permitted to question the need for the development, which is already held to have been established.

- Possible drop in house values;

**Comments:** Property values are not deemed to be a material planning consideration since they are a private not a public interest.

- Detrimental impact upon local bed & breakfast;

**Comments:** This is considered to be a private rather than public interest and therefore not a material consideration.

- Children play on the grassed area and may climb on the mast and cabinets;

**Comments:** The same concerns could apply to almost any new piece of street furniture, including the existing bus station.

- Paragraph 61 of the Code of Practice for Wireless Network Development in England which states 'the design and siting of equipment should, as far as possible, avoid or minimise impacts on local context and character, and the significance of heritage assets or their setting'.

**Comments:** The Code of Practice is undoubtedly a valuable resource for telecommunications development but is not an adopted planning document for Local Planning Authorities, who are thereby not obliged to take it into account.

- It is unclear whether the Little Angels Nursery and Out of School Club has been consulted;

**Comments:** On page 2 of the supporting statement, it specifies that this body was consulted. Under “Summary of outcome / main issues raised” it says N/A. The Local Planning Authority has no evidence to contradict this information.

- Lack of clarity in supporting statement about why some sites have been ruled out. “D1 is discounted because it is ‘very residential’, but the chosen location is only three metres away and is equally residential. D2 is right outside the Grade II\* listed Longley Old Hall, but this fact is not mentioned (see below). D6 is discounted because of unsuitable pavements and again being in a residential area, but no mention is made of the existing mast at this site”

**Comments:** As set out above, it is considered that the statement fails to give proper consideration to the settings of Listed Buildings in the local area. Furthermore, it has not been demonstrated conclusively that there are no suitable alternative sites.

## **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 have a negative impact upon the streetscene and in particular be harmful to the setting of Grade II\* listed Longley Old Hall and the Grade II Listed 197-201 Longley, Grade II 191 Longley, Grade II 175-177 Longley and Grade II 161 and 165 Longley.

The public benefits of the proposal are not considered to outweigh the less than substantial harm to the heritage assets. Therefore, the proposal is contrary to the aims and objectives of Policies LP24a and LP35 of the Kirklees Local Plan and Chapters 12 and 16 the National Planning Policy Framework.

It is therefore recommended that that Prior Approval should not be granted.

**Recommendation:** PRIOR APPROVAL REQUIRED AND NOT GRANTED

**Decision Authorisation:** Delegated Powers

**Application Number:** 2023/90052

**Officer Recommendation:** Refuse Prior Approval

The proposed mast, by reason of its height, siting and incongruous appearance would have a harmful impact upon the setting of several Listed Buildings in the vicinity of the site, including the Grade II\* Longley Old Hall, Grade II 197-201 Longley, Grade II 191 Longley, Grade II 175-177 Longley and Grade II 161 and 165 Longley and would thereby fail to conserve the character of the townscape and heritage assets. The public benefits associated with the proposal would not outweigh the less than substantial harm caused to the significance and character of the designated heritage assets affected. Furthermore, it is considered that the supporting statement does not conclusively demonstrate that there are no suitable alternative sites within the area of search. The siting and appearance of the proposed mast would therefore be contrary to the aims of Policies LP24(a) and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework, and the Council's duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Application form			06-Jan-2023
5G Site Specific Supplementary Information and Planning Justification Statement	KKS25770		10-Jan-2023
Developer's notice	KKS25770 - WOOD LANE		10-Jan-2023
Location plan	002	A	06-Jan-2023
Proposed site plan	215	A	06-Jan-2023
Proposed site elevation	265	A	06-Jan-2023
5G Health & Network Briefing	Mobile UK		06-Jan-2023
ICNIRP Form	KKS25770		06-Jan-2023
Government statement	Ministry of Housing, Communities and Local Government		06-Jan-2023
Notice served on Highway	KKS25770 - WOOD		06-Jan-2023

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Authority	LANE		

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. No amendments were sought since it officers considered that the submission of amended plans would not have provided a means to overcome the planning concerns set in the report.

**Report Dated:**

23-Feb-2023