

**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 /90060/E

**Site Address adj, 88, Greenfields,
Heckmondwike, WF16 9HD**

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

Recommending Officer Elenya Jackson

DECISION – DETAILS APPROVED

**I hereby authorise the approval 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: 28-Feb-2023

Officer Report

Site Description

The application site is a small parcel of land in the middle of Little Green Lane and new North Road Heckmondwike to the south of Leeds Road.

The area is mixed use in nature with commercial units to the east and a food establishment to the south.

The site is relatively undeveloped and forms a crossing across Leeds Old Road.

Description of Proposal

The application is seeking Prior Notification for a proposed 15m high street monopole and additional equipment cabinets.

Relevant Planning History

Application Land:

No previous planning history

Procedural Matters and Policy Context

The proposal constitutes development as defined within Section 55 of the Town and Country Planning Act 1990. The General Permitted Development (England) Order 2015 (as amended), 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 proposed development is considered to be covered within this Class, and is thus authorised subject to the restrictions, conditions and 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 and The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022.

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 would not exceed 15m in height.
(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;	Pass: The proposal seeks an additional installation and would not exceed 15m.
(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;	Pass: The site is on the highway but is not within article 2(3) land. The masts height, excluding the antenna, would not exceed 25m.
(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	Pass: The proposal seeks a new installation.

highway; or (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.	
---	--

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 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. This has been undertaken.

Relevant Policy

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

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).

- LP 7 – Efficient and effective use of land and buildings

- LP 21 – Highway safety
- LP 24 – 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 19th February 2019, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

- Chapter 10 – Supporting high quality communications
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places

Consultation Responses

KC Highways Development Management (HDM) – no objections to the location of the mast however, should the application be recommended for approval, have requested the inclusion of a pre-commencement condition for the submission of a Construction Access Management Plan. This is due to the location of the development and the potential for construction works to impact on the safe use of the adjacent road. However, under the prior approval Part 16 does not provide for the imposition of planning conditions. Notwithstanding this, any work carried out that affects a public highway will need the consent from the Highway Authority.

Environmental Health: No Objections

Legislation

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

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 Allocated and Visual Amenity

The proposal is to provide additional 5G service due to it being the best available compromise for extending the coverage hole.

The supporting document demonstrates the cell search area where they consider the proposed cell must be located to fit into the network.

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

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

Below are extracts taken from Local Plan Policy LP24, these policies are further supported by Chapters 12 of the National Planning Policy Framework.

Extract from LP24 'Proposals should promote good design by ensuring: The form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.

In this case, six potential locations for the telecommunications mast have been discounted within the locality. Four have been discounted due to visibility splay issues, and three due to unsuitable pavements to build the installation and one due to the location being within a residential area. No further information has been submitted. The Planning Statement submitted by the applicant states "cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m." This is considered to be unrealistic particularly as the furthest discounted site is approximately 450m from the extent of the cell area proposed to be covered. It appears reasonable to therefore consider any sites within a 450m radius from the centre of the proposed cell area. However, when considering the surrounding area within the wider radius the buildings are predominately made up of residential estates with some open land to the north of the site. It is accepted few or no other buildings or other masts appear suitable to accommodate the proposed apparatus.

The new mast would be located on grass verge which is encased by a pavement allowing pedestrians to cross across Old Leeds Road. The area has street lighting columns, telephone poles, traffic lights and signage.

The Supplementary Information does not provide additional information regarding the proposed design of the structure other than it being a 'better fit' due to the proposal not being situated within a Conservation Area. The justification for the proposed location of the new mast is that it would 'assimilate well into the immediate street scene and not be detrimental'

It is considered that, the proposal is not overly close in proximity to any residential dwellings, is located on a site which is surrounded by various usages and types of development. The closest residential property is to the east of the mast with the rear garden some 20m away and first floor windows 30 metres from the mast. This property is set down from the road with a 2 metres boundary fence obscuring most of the mast. There will be views of the mast from the first floor windows and sight of upper parts of the mast from the rear garden although these are considered to be sufficiently away not to cause undue visual harm.

The 15m mast carries a large headframe and whilst only 3m higher than the existing lighting columns, the mast and apparatus would have a bulkier form. The mast is also sited in an area of relatively low build form and as such prominent when approaching from Leeds Road, New Road and Gomersal Lane. However and despite the proposal being of prominent the immediate surrounding area is urbanised and a mast of 15m is not considered to cause demonstrable detrimental harm to the character of the area although it is acknowledge visual harm will be caused by reason of prominence.

It is acknowledged, however, that chapter 10 of NPPF places weight on the development of high quality communications paragraph 115 states that new masts should be sympathetically designed and camouflaged where appropriate. In this instance it is considered the mast could not be concealed in any manner and siting is considered to be the most appropriate within the cell radius. The head frame is considered bulky and industrial in appearance although it is not considered to be so unduly unsightly to outweigh the benefit of high quality communications.

Overall and on balance, whilst significant weight has been afforded to development for telecommunications in the NPPF, for the reasons set out above in relation to the siting and appearance of the proposed mast, the proposal would not result in harm to the visual amenity of the street scene, contrary to Policy LP24a of the KLP as well as Chapter 12 of the NPPF.

1.1 – Impact on Residential Amenity

The mast would not be situated on the pavement, would be in an open position but within a reasonable distance of the properties to the east of the application site..

Despite the substantial height of the mast, its positioning and separation distance in relation to neighbouring properties considered sufficient to prevent there from being any detrimental harm upon the amenity of these neighbours in terms of overlooking overshadowing loss of light or overbearing.

In summary, it is considered that the proposal would not have a detrimental in terms of residential amenity, complying with Policy LP24 and Chapter 12 of the NPPF which seek to ensure development does not harm to amenity of neighbouring residential.

1.3 – Impact on Highway Safety

The mast would be located adjacent to an existing pavement but contained within a grass verge. The plans indicate that, the width of the pavement would be retained with the proposal in place. The mast and associated equipment due to its set in and set back location from the Highway, would not obscure any sight lines from the adjacent junction. The location of the mast, once in place, is therefore considered not to impact on highway safety. KC Highways have been informally consulted on the application on 1.03.2022. Should the application be recommended for approval, a pre-commencement condition would be required for the submission of a Construction Access Management Plan in the interest of highway safety and the safe use of the adjacent highway network. This would be in accordance with Policy LP21 of the KLP. As stated above, under the prior approval regime Part 16 does not provide for the imposition of planning conditions. Notwithstanding this, any work carried out that affects a public highway will need the consent from the Highway Authority. Consequently, the lack of a condition to control matters regulated by the Highway Act is not considered to be a reason for refusal. However an footnote is considered appropriate.

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. The site notice associated with this application expired on 23.02.2023. Informal consultations were held with Highways on 1.03.2022 and a formal consultation from KC Environmental Health was received on 18.01.2023. No additional representations have been received.

3) Conclusion

An ICNIRP declaration has been provided with the application.

The principle of development is established by the General Permitted Development Order 2015 (England) (as amended) other than the siting and appearance of the proposal. 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 on balance, the benefit of 5G communications outweighs the harm caused by the appearance of the development particularly in light of the lack of alternative suitable sites. The proposal therefore accords with the aims of Chapter 10 the NPPF.

Recommendation: Grant Prior Approval

Decision Authorisation - Delegated Powers

Application Number: 2023/90060

Officer Recommendation: Grant Prior Approval

NOTE: Details of the provision to be made for the safe parking, loading and unloading of equipment by crane and the parking of the workforce during construction works, including details of any traffic management and appropriate licenses or legal agreements should be agreed with the Kirklees Street Works Team. This should also include permissions for the temporary closure of the bus box adjacent to stop 22764 on Acre Street.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 0800 9318765) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
265 Proposed Site Elevation	KS25992_KKS286_TBC_WF0505_GA_R EV_A	A	9.01.20 23
215 Proposed Site Plan	KS25992_KKS286_TBC_WF0505_GA_R EV_A	A	9.01.20 23
002 Site Location Plan	KS25992_KKS286_TBC_WF0505_GA_R EV_A	A	9.01.20 23
Ionising Statement	KKS25990_KKS278_TBC_WF0504_GA_ REV_A		9.01.20 23
Gov Statement			9.01.20 23
Site Specific Supplementary Information			9.01.20 23
5G Briefing			9.01.20 23
Developers Notice			9.01.20 23

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 Planning 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 additional information requested.