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 /91131/W**
Site Address	**Longwood Edge Road, Salendine Nook, Huddersfield, HD3 3UY**
Description	**Prior notification for proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets**
Recommending Officer	**Katie Chew**

DECISION – PRIOR APPROVAL 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.

West Team

AUTHORISED OFFICER

Date: 07-Jun-2023

Officer Report

Site Description

Longwood Edge Road, Salendine Nook, Huddersfield, HD3 3UY

The site relates to a portion of hardstanding/pavement located adjacent to the junction of Longwood Edge Road and Centuria Walk in Salendine Nook. Surrounding the site to the north, east, south and south-east are residential dwellings. To the west is open undeveloped land.

The site is not located within a Conservation Area and is not located in close proximity to any listed buildings.

Description of Proposal

The applicant is seeking prior notification for proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

The mast would have an overall height of 15m and is to include a GPD module which is to be mounted at the top of the pole. The mast would have a diameter of ~0.4m and is to be used by CK Hutchinson Networks (UK) Ltd (commonly known as Three). The proposed new facility will require the installation of a limited number of equipment cabinets at ground level in close proximity to the base of the mast. These include an AC Transmission Cabinet, Ericsson 6130 Equipment Cabinet and a CommScope Bowler Cabinet however, as these cabinets would be Permitted Development without needing prior notification, they do not form part of this application.

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 4th April 2022 and are the regulations against which this application is submitted.

Relevant Planning History

There is no relevant planning history at the site, or at adjacent sites.

Pre-application

2023/20434 - Telecommunication notification. Comments sent on the 4th April 2023. Officers noted that the section of the road the proposal would be sited appears to be a very open/prominent section of the street, although it would be opposite a highway rather than residential properties. In the absence of alternative sites being shown which would provide coverage Officers were unable to provide further information but did suggest that from an initial view of the locality it would appear that there may be less visually prominent locations to site the development on this street.

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,

a) 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

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 outlines 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.

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.
(a) 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.

(b) 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 (i) 25 metres above ground level on article 2(3) land which is on a highway; or	**Pass:** The site is on the highway and is not within article 2(3) land, the proposed mast excluding the antenna is less than 30m above ground level.
(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 level on article 2(3) land or land which is on a highway; or	**N/A:** The proposal seeks a new installation.
(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 (i) The mast would, when altered or replaced, exceed the original width of the mast by more than one third.	**N/A:** The proposal seeks a new installation which is not located on any land that is within a site of special scientific interest.

The proposal is in accordance 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 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 for Prior Notification from the Local Planning Authority.

Prior notification is required for the following considerations:

- Siting
- Appearance

Furthermore, under the procedures outline in paragraph A.3, the Council is required to consult relevant bodies and advertise the application by site notice, this has been undertaken.

Representations

Publication of the application has been undertaken in accordance with 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 27th of May 2023.

As a result of the above publicity, 10 representations have been received. 9 of which were in objection to the proposals and 1 in support. Comments are summarised below.

Officer note: It is also important to note that a petition has also been submitted which contains signatures from 29 neighbouring residents in objection to the proposals.

In objection:

- The proposed mast will be ruinous to the precious, natural greenbelt environment of the area. The mast will be in a place of walking routes, fresh air and sunlight and there will be a huge monstrosity that can be seen for miles across the valley and in many of the area's beauty spots.

  Officer note: Noted. This is discussed in more detail within the siting and appearance section of this report.

- There are many sites close by that won't be on greenbelt and won't affect the health and well-being of residents.

  Officer note: Noted. This is discussed in more detail within the siting and appearance and residential amenity sections of this report.

- Concerns that the masts will impact on the health of adjacent neighbouring properties.

  Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

- The residents of this area have not been informed of this move and have not been given fair time to raise concerns. No planning applications have been posted around the area and no information has been given.

  Officer note: Noted. The Council did post a site notice in close proximity to the application site, whereby interested parties had 21

days to submit representations on this application further details are outlined above.

- The associated ground cabinets will create visual and physical obtrusive clutter.

  Officer note: Noted. This is discussed in more detail within the appearance and siting section of this report.

- Concerns in regard to neighbouring properties being robbed of their light.

  Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

- 5G frequencies are close in frequency to TV frequencies and can disrupt reception for local residents.

  Officer note: Noted. Unfortunately, this would not form a material planning consideration and therefore will not be assessed within this officer report.

- Mast sharing should be the default mechanism for increasing a particular cellular network operator's coverage, with new mast installations the solution of last resort.

  Officer note: Noted. This is discussed in more detail within the siting and appearance section of this report.

- With the availability of gigabit speed broadband in the area a 5G mobile data service in residents own homes is simply not required, therefore this proposal will provide no material benefit to them.

  Officer note: Noted. Unfortunately, this would fall outside of our remit and would be down to the applicant to undertake the relevant assessments as to whether 5G data is required in the search area, in this instance they have confirmed within their submitted documents that it is required.

- When did pre-consultation take place and in what scenario was this application considered to not be an issue regarding adverse visual amenity to adjoining residential properties.

  Officer note: Pre-application was undertaken in April 2023, details of which can be found above within the planning history section. Details in respect of residential amenity drawn under this application can be found within the residential amenity section of this report.

- Concerns that there will be continuous noise from the cabinets.

Officer note: Noted. Whilst no details have been submitted in respect of the cabinets and any noise emissions, it is not considered likely that the noise would be excessive/over and above the existing noise climate given their use and nature. Furthermore, the cabinets can be erected without the applicant having to seek prior approval from the Council, therefore we do not have control over this element of the scheme and it would therefore not be reasonable to request any restrictions on the cabinets in terms of noise in this instance.

- Has the Council followed due process and informed schools, residents, workers and families of children who will be inside the 500m exclusion zone?

  Officer note: Noted. A site notice was placed close to the application site allowing interested parties 21 days to comment on the application. Consultation with schools should be done as part of the pre-application discussions between the developer and relevant body. This is discussed further within the other matters section of this report.

- Concerns that the proposals would impact on ecology and wildlife.

  Officer note: Noted. This is discussed in more detail within the residential amenity section of this report.

- Each 5G mast requires approximately 3x more power than a 4G mast, this is not supportive of climate change mitigation.

  Officer note: Noted. Whilst the telecommunications structure would use resources due to electricity consumption, it also aids in the reduction in the use of resources by improving telecommunications infrastructure which can assist in reducing emissions such as working from home and therefore a balanced approach needs to be taken.

- Concerns over the height of the proposed mast due to the high winds on this high open ridge – raising safety concerns.

  Officer note: Noted. However, this would fall outside of the remit of planning and would be down to the developer to ensure the safety of the mast should permission be granted.

In support:

- Support and welcome bringing 5G to the area, which is set to become an enabler for using a whole array of services in the future.

Officer note: Noted.

Parish/Town Council Comments

N/A.

Consultation Responses

KC Environmental Health – Comments received 25th April 2023. No objections.

KC Highways Development Management – Comments received 10th May 2023. No objections subject to a construction management plan and maintenance plan being agreed.

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.

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 (LP):

- LP1 – Achieving Sustainable Development
- LP2 – Place Shaping
- LP21 – Highways and Access
- LP24 – Design

National Planning Polices and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated 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. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving Sustainable Development
- Chapter 4 – Decision-making
- Chapter 10 – Supporting high quality communications
- Chapter 12 – Achieving well-designed places

Legislation

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

Assessment

As per Part 16, Class A, A.3(4), the following matters are considered in the assessment below –

1. Siting and appearance
1. Conclusion

1.1 – Sequential Approach, Land Allocation and Visual Amenity

The site is required to provide new 5G coverage for H3G LTE, improving service in and around this area subject to this application. The cell search areas of 5G are outlined as being extremely constrained with a typical cell radius of approximately 50m.

With 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 building structures
2. New ground-based installations

The applicant states that a new mast and ancillary equipment is required in this location as existing mast sites are not capable of supporting additional equipment to extend coverage reach across the target area and prospective 'in-fill' mast sites are extremely limited. They note that there is an acute need for a new base station to provide effective service coverage and in this case, the height of the proposed street pole is the minimum required to bring the benefits of 5G to this area.

The submitted information also highlights that the cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m. it is recognised that the very nature of installing new 5G mast infrastructure within a dense urban setting required a well-considered balance between the need to extend practical coverage with that of increasing risk of visual intrusion. It is claimed a street pole with associated cabinets is deemed to be the only and most appropriate solution available.

In this instance, the applicant has provided a sequential test contained within the Site-Specific Supplementary Information (SSSI) document.

In this case, six options for the location of the telecommunications mast have been explored within the local vicinity, these were all dismissed based on a multitude of reasons such as insufficient pavement space and the proximity of residential housing. However, Officers note that the area of search has been solely directed to within the adjacent housing estate (Centuria Walk/Fortis Way) whereas the Statement suggests other sites "close to the area shown" can also be considered. Therefore it is considered that other alternative sites outside of the housing development may provide a more suitable location, in particular land to the north where mature tree cover may help camouflage the mast. Furthermore, whilst the submitted 5G Site Specific Supplementary

Information and Planning Justification Statement makes reference to there being no scope to upgrade existing infrastructure or site share with other operators no evidence or assessment to support this conclusion has been provided.
With regard to the siting of the proposed mast, this would be located on the existing pavement adjacent to the junction of Longwood Edge Road and Centuria Walk. Whilst there is other street furniture located along this stretch of pavement which include lampposts, that are of a modest height of around 6m, these are significantly smaller than the proposed 15m mast which is to be located in a prominent and openly visible location, on a main road, adjacent to Greenbelt land consisting of open countryside views. Also of note, the mast is to be viewed against a drop in the valley to the west, thus making it appear more dominating and visible from further afield. The proposals will also add clutter within the streetscene.

It is acknowledged that Chapter 10 of the 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 that the mast would appear significantly overt and dominant on the streetscene, most specifically as it would be viewed against the open valley to the west. This, coupled with Officers concerns in respect to its proposed location, lack of justification in respect of suitable sites and mast sharing and that relevant bodies such as Moorlands Primary School has not been consulted, it is considered that infrastructure needs would not outweigh Officer concerns on this occasion.

Overall, whilst significant weight has been afforded to the development for telecommunication within the NPPF, for the reasons set out above in relation to the siting and appearance of the proposed mast, the proposal would result in harm to the visual amenity of the streetscene and would therefore be contrary to Policy LP24(a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

1.2 – Impact on Residential Amenity

The mast would be located on the hardstanding/pavement located adjacent to the junction of Centuria Walk and Longwood Edge Road in Salendine Nook. The site is surrounded by residential dwellings to the north and east. The nearest residential properties are located approximately 25+ metres away to the north/east of the mast.

Whilst a mast of this scale, in this location would have the potential to impact upon the amenity of these nearby properties, its simple form, separation distances, and that it would be viewed against other existing street furniture would help mitigate against any undue overbearing impact the mast may have. It is considered that these neighbouring properties would still continue to enjoy access to natural light.

On balance, by virtue of the separation distances, form and scale of the mast, the siting and appearance of the development is not considered to detrimentally impact upon these neighbours' amenity.

A number of representations have been received which site that the proposals would have harm to human health and ecology. The NPPF is quite clear in paragraph 118 that "*Local Planning Authorities must determine applications on planning grounds only. They should not…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 by recognised guidelines. Officers have no reason to consider that this is incorrect.

Furthermore, the concerns in regard to public health are noted and the guidance of the UK Health Security Agency in the guidance note publishes 3rd October 2019 "5G technologies: Radio Waves and Health" is also noted along with the requirements of the NPPF. The present guidance indicates that it would not be reasonable for the LPA to refuse the application on the basis of impact upon health.

Therefore, it is considered that the proposal would comply wit the aims of Policy LP24 of the KLP and Chapter 12 of the NPPF which seek to ensure development does not harm the amenity of the neighbouring residents.

1.3 – Impact on highway safety

KC Highways Development Management have been formally consulted as part of this application given that the proposal would be located on a portion of hardstanding/pavement located adjacent to the junction of Centuria Walk and Longwood Edge Road in Salendine Nook.

Highway Officers note that the application site is at the back of a footway and is set back far enough to not obstruct it. As a result, the site is acceptable from a highways perspective however, they do recommend a condition should permission be granted. This condition relates to the submission of a construction management plan for the installation of the equipment and a maintenance plan for the ongoing maintenance of the equipment. However, it is noted that the prior approval regime does not provide for the Local Planning Authority to impose conditions. If minded to approve it would be recommended a footnote be included to address Highway officer concerns.

The proposal is therefore considered to have an acceptable impact on highway safety, in accordance with Policy LP21 of the Kirklees Local Plan, the Council's adopted SPD and the aims of the National Planning Policy Framework.

1.4 – Other matters

It is noted from looking at the submitted 5G Site Specific Supplementary Information and Planning Justification Statement (SSSI) and from representations received, that it does not appear that a meaningful consultation with the nearby Primary school (Moorlands Primary School) was not carried out in accordance with Paragraph 117 (a) of the NPPF which requires that necessary evidence is submitted to justify the development including; "the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college…"
Moorlands Primary School is located approximately 290m away from the application site. Whilst outlined within the SSSI no information has been provided to summarise the outcome of such discussions or any issues raised by this body. Whilst no evidence has been submitted from third parties that a meaningful consultation was not carried out in a timely and complied manner it is of note that the LPA has received objections/queries to that affect.

This obviously raises a concern that no meaningful period for consultation was given to this relevant body therefore concerns are raised that the responses within the submission relating to "pre-application submissions" may be somewhat "disingenuous." Therefore, the lack of compliance with paragraph of 117 (a) of the NPPF would also constitute a reason for refusal in this context.

2. Conclusion
The principle of development is established by the General Permitted Development Order 2015 (England)(as amended). However, the principle of development is only established in so far as any matters other than the siting and appearance of the equipment. Hence, 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, the proposal is concluded to have an unacceptable impact and is therefore contrary to Policy LP2 which seeks to ensure that all development proposals build on the strengths, opportunities and help address challenges identified in the Local Plan, in order to protect and enhance the qualities which contribute to the character of these places. The proposal is therefore considered to be unacceptable, prior notification is therefore recommended to be refused.

Recommendation: Refuse Prior Approval.

Decision Authorisation - Delegated Powers

Application Number: 2023/91131

Officer Recommendation: Refuse Prior Approval.

Reason(s) for Refusal:

1. The proposed mast, by reason of its siting, overall height and appearance would introduce a visually intrusive and incongruous feature within the streetscene, adding to the 'visual clutter' and appearing out of scale with the surrounding development failing to respect the open character of the area, contrary to policies LP1, LP2, and LP24 (a) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

1. No evidence has been provided in regard to the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college contrary to the requirements of paragraph 117 (a) of the National Planning Policy Framework.

2. Insufficient assessment has been undertaken in respect of suitable alternative sites within the area of search. The search has focused solely on locations within the adjacent housing estate and whilst the submitted 5G Site Specific Supplementary Information and Planning Justification Statement makes reference to there being no scope to upgrade existing infrastructure or site share with other operators no evidence or justification for this has been provided. The development is therefore considered to be contrary to Policy LP4 of the Kirklees Local Plan and Chapter 10 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	**Reference**	**Web ID**	**Date Received**
002 Site Location Plan	KKS22839_KKS295_30408_HD0245_GA_REV_A	A	17th April 2023
206 Proposed Site Elevation	KKS22839_KKS295_30408_HD0245_GA_REV_A	A	17th April 2023
215 Proposed Site Plan	KKS22839_KKS295_30408_HD0245_GA_REV_A	A	17th April 2023
265 Proposed Site Elevation	KKS22839_KKS295_30408_HD0245_GA_REV_A	A	17th April 2023
Mobile UK Briefing Note: 5G and Health - Supporting Information	-	-	14th April 2023
5G Site Specific Supplementary Information and Planning Justification Statement Prepared by	-	-	14th April 2023

Dot Surveying			
DCMS MHCLG Collaborating for Digital Connectivity Letter – Supporting Information	-	-	14th April 2023
Developer Notice Served to Highways – Supporting Information	KKS22839 – Longwood Edge Road	-	17th April 2023
Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines – Supporting Information	-	-	14th April 2023

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 preapplication 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 Officers considered that the submission of amended plans would not have provided a means to overcome the planning concerns set out in the report.

Report Dated:

06/06/2023