

**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 /91250/E**

**Site Address Owl Lane, Shawcross, Dewsbury,  
WF12 7RQ**

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

**Recommending Officer Alice Downham**

**DECISION – TELECOMMUNICATIONS 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: 20-Jun-2023**

## **Officer Report**

### **Site Description**

The site relates to a section of pavement on Owl Lane, Dewsbury. There is grassed land to the rear (east) and a grass verge to the south. There are two lamp posts in the vicinity. The north, east, and south of the site are predominantly residential. To the west of the site is predominantly in commercial use.

### **Description of Proposal**

The application is seeking prior notification for proposed 5G telecoms installation. This would consist of a H3G 15m street pole and additional equipment cabinets. The mast and equipment cabinets would be light grey in colour (RAL 7035).

### **Relevant Planning History**

2023/90056 – Prior notification for proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets. Refused.

### **Representations**

The application was advertised in accordance with the requirements of Subsection A.3, 6(d) of Schedule 2, Part 16, Class A of the General Permitted Development Order 2015. Publicity expired on 1<sup>st</sup> June 2023. 3 representations have been received. The following is a summary of the material planning considerations which were raised as concerns:

- Impact on visual amenity

Other matters raised in the representations are not material planning considerations and as such will not be discussed further.

An objection was received from Cllr Eric Firth, stating:

*“I certainly do object to this equipment being placed next to this possible housing site on Owl lane, this is a totally inappropriate place to site it. Only a few hundred yards away there is a large industrial site, of John Ormsby Way and it would be much more sensible to put it there. So please register my objection, not to the pole but the siting of it.”*

Cllr Cathy Scott also objected as follows:

*“I agree with Cllr Firth totally object to this.”*

### **Consultations**

None were considered necessary in this instance.

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

Development is not permitted:

<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) 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;	<b>Pass:</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— (i) 30 metres above ground level on	<b>Pass:</b> The site is not on the highway or within article 2(3) land. The mast's height, excluding the antenna, would

<p>unprotected land; or  (ii) 25 metres above ground level on article 2(3) land or land which is on a highway;</p>	<p>not exceed 30m.</p>
<p>(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  (ii) 25 metres above ground level on article 2(3) land or land which is on a highway;  or</p>	<p><b>Pass:</b> The proposal seeks a new installation.</p>
<p>(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  (ii) the mast would, when altered or replaced, exceed the original width of the mast by more than one third.</p>	<p><b>Pass:</b> The proposal seeks a new installation.</p>

**Subsection 4: antennas and supporting structures installed, replaced or altered on article 2(3) land or land which is a site of special scientific interest**

<p>(a) on any article 2(3) land unless—  (i) the development (excluding the installation, alteration or replacement of a mast) is carried out in an emergency and is within any limitations specified in paragraph A.1 for development of the same type on unprotected land;  (ii) the antenna or apparatus comprises or is part of a small cell system and is on a building which is not a dwellinghouse or within the curtilage of a dwellinghouse;  (iii) the antenna is a small antenna and the development is within the limitations specified in paragraph A.1(5) or (6); or  (iv) where the antenna or apparatus is not a small cell system or a small antenna, the development is within the limitations specified in</p>	<p><b>Pass:</b> The development would not be carried out in an emergency, would not be installed on a building; would not be an antenna; and would be within the limitations specified in paragraphs A.1(1)(c)(ii), A.1(1)(d)(ii), or A.1(2)(f).</p>
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<p>paragraphs A.1(1)(c)(ii), A.1(1)(d)(ii), or A.1(2)(f);</p>	
<p>(e) on any land which is, or is within, a site of special scientific interest unless—</p> <p>(i) the development (excluding the installation, alteration or replacement of a mast) is carried out in an emergency and is within any limitations specified in paragraph A.1 for development of the same type on unprotected land; or</p> <p>(ii) the development is within the limitations specified in paragraph A.1(5).</p>	<p><b>Pass:</b> The site is not within a site of special scientific interest.</p>

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 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. As set out above, this has been undertaken.

### **Relevant Policy**

#### **Kirklees Local Plan**

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

The site is without notation on the Kirklees Local Plan Policies Map.

- **LP21** – Highway safety
- **LP24** – Design

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

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) published 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 12** – Achieving well-designed places

## **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 a new 5G service. The submitted planning justification statement 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 install 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 which is set out within the planning justification statement. There is a requirement to provide new 5G coverage for H3G LTE, improving service in and around this area subject to this application. The cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m.

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, six other potential locations for the telecommunications mast have been considered within the locality. These have been discounted due to unsuitable pavements/verges for installation, issues with visibility splays, and location in a residential area. The Planning Statement states the proposed mast must be located close to the area shown edged yellow on the embedded plan. The area shown appears disproportionately small and it is not clear whether this is the area of coverage the mast is aiming to achieve. However, the further discounted site (D6) lies 280m from the furthest extent of the targeted area and it appears reasonable to conclude a site within a 280m radius from the target area could be feasible. The radius includes a number of sites further away from residential properties particularly the commercial and industrial sites off John Ormsby VC Way which may be more appropriate in terms of siting. The applicant has not demonstrated that any site/building closer to or within the industrial area cannot be discounted.

The new mast would be located on an existing pavement adjacent to the highway. There is one lamppost on the grass verge on Church Lane, and one on the pavement on Bradford Road. However, these are both of a significantly lower height (10m) and are slimmer lightweight features compared to the proposed mast. The neighbouring residential dwellings are of a significantly lower height (approximately 9m) compared to the proposed 15m mast. The mature vegetation to the rear would also be significantly lower in height than the proposed mast, as demonstrated on the submitted plans. Any benefit of the vegetation would be seasonal, as these are deciduous trees. The mast would be significantly higher than all other features in the area. It is considered that it would therefore dominate the existing built development and be out of character with the local area.

Officers' concerns are intensified by the open nature of the site with no screening to reduce the prominence of the mast. Coupled with the height of the mast (15m), this would result in the mast being visible for some distance when travelling along Owl Lane and Leeds Road.

It is noted that the mast has been amended to a more slimline design compared to the previous refused submission (2023/90056). However, officers consider that this would not wholly overcome concerns relating to the size of the mast or its siting, as set out in the reason for refusal of the previous application.

Local Plan Policy LP4 and Chapter 10 of the NPPF offer significant weight to supporting the delivery of infrastructure. Paragraph 115 of the NPPF states that new masts should be sympathetically designed and camouflaged where appropriate.

Policy justification paragraph 11.8 for Policy LP24 states that *“All telecommunications infrastructure should be capable of accommodating changes in technological requirements, without having a negative impact on*

*the streetscene.*” In this instance it is considered the mast is significantly overt and dominant on the streetscene, with the harm to visual amenity outweighing the need for infrastructure.

Overall, 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 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.

### 1.3 – Impact on Residential Amenity

The mast would be located on a section of pavement on Owl Lane, Dewsbury. The north, east, and south of the site are predominantly residential. To the west of the site is predominantly in commercial use.

56 & 58 Smallwood Road are located to the east of the application site. The rear elevation of no.56 would face the application site. A separation distance of approximately 36m would be maintained. The side elevation of no.58 would face the application site. The side elevation appears to contain two small windows (likely secondary or serving non-habitable spaces). A separation distance of approximately 45m would be maintained. Despite the substantial height of the mast, its positioning in relation to 56 & 58 Smallwood Road is considered sufficient to prevent any detrimental harm upon residential amenity.

33 Owl Lane is located to the south of the application site. A blank side elevation faces the application site. Therefore, despite the substantial height of the mast, its positioning in relation to this property is considered sufficient to prevent any detrimental harm upon residential amenity.

15 & 16 Owl Lane are located to the north of the application site. The side elevation of no.15 would face the application site. The side elevation of this two-storey dwelling contains three windows (likely secondary or serving a non-habitable space). A separation distance of approximately 37m would be maintained to no.15. The existing mature vegetation would also provide a screening effect. 16 Owl Lane is located on the opposite side of Owl Lane such that no.16 would not have a direct relationship with the proposed mast. A separation distance of approximately 37m would be maintained to no.16. Despite the substantial height of the mast, its positioning in relation to these properties is considered sufficient to prevent any detrimental harm upon residential amenity.

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.

### 1.4 – Impact on Highway Safety

The mast would be located on an existing section of pavement, set back from the edge of the highway. The siting of the mast would not impact on the pavement, and subsequently would not affect pedestrian use. The mast, due to its set in and set back location, would not obscure any sight lines. The location of the mast, once in place, is therefore considered not to impact on highway safety. Officers note that the vehicles and machinery required for the installation of the mast have the potential to block the carriageway which would have a detrimental impact on highway safety, and the weight of a crane could cause damage to underground highway structures. Should the application be recommended for approval, a pre-commencement condition has been recommended requiring 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.

## 2) Representations

2 representations have been received. The following is a summary of the material planning considerations which were raised as concerns:

- Impact on visual amenity

**Officer comment:** *This matter has been addressed in the report.*

Objections received from Cllrs Eric Firth and Cathy Scott 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 built environment and Birstall Conservation Area, contrary to the aims and objectives of Policies LP24 and LP35 of the Kirklees Local Plan and Chapters 12 and 16 of the National Planning Policy Framework.

**Recommendation: Refuse Prior Consent**

**Decision Authorisation - Delegated Powers****Application Number:** 2023/91250**Officer Recommendation:** REFUSE PRIOR APPROVAL**Reason for Refusal**

The proposed mast, by reason of its siting, size, and appearance would be a visually

intrusive and incongruous feature in the streetscape appearing wholly out of scale with the surrounding residential properties and failing to respect the character of the area. The proposed development would therefore be contrary to Policy LP24 of the Kirklees Local Plan and Chapters 10 & 12 of the National Planning policy Framework. In addition the applicant has not demonstrated that any site/building closer to or within the nearby industrial area cannot be discounted in so far as the proposed location is the only reasonable location to achieve the aims of chapter 10 of the National Planning Policy Framework.

**Plans and specifications schedule: -**

<b>Plan Type</b>	<b>Reference</b>	<b>Date Received</b>
Location Plan	002	26/04/2023
Proposed Site / Block Plan	215	26/04/2023
Proposed Elevations	265	26/04/2023
General	5G Site Specific Supplementary Information and Planning Justification Statement Prepared by Dot Surveying (dated 26/04/2023)	26/04/2023

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 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. Moreover, the agent is aware of the issues as a similar scheme has been refused previously on the same grounds.