

**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 /91363/E

**Site Address Penistone Road, Shelley,
Huddersfield, HD8 8JN**

**Description Prior notification for installation of
20-metre-high lattice tower
supporting 6 antennas on a
headframe; 1 GPS Modules; 2
x300mm transmission dishes; 12.
Ericsson radio systems ERS; 2
equipment cabinets; 1 meter
cabinet and ancillary development
thereto including 300 wide cable
ladder on 2 gantry poles, 2.1m
palisade fencing and a 1metre gate**

Recommending Officer Alice Downham

DECISION – PRIOR APPROVAL GRANTED

**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: 03-Jul-2023

Officer Report

Site Description

The site is an area of grassed land approximately 240m to the east of Penistone Road, separated by Cinder Hill Wood. The site is on top of a hill. There are open fields to three sides, with trees to the west. There is existing telecommunications apparatus and masts to the south of the site, with a few residential properties in the wider area. The site is located in the Green Belt on the Kirklees Local Plan, and the local character is rural. A Public Right of Way (PROW) runs directly to the west of the site.

Description of Proposal

The application is seeking prior notification for the installation of a 20-metre-high lattice tower supporting 6 antennas on a headframe; 1 GPS Modules; 2 x300mm transmission dishes; 12. Ericsson radio systems ERS; 2 equipment cabinets; 1 meter cabinet; and ancillary development including 300 wide cable ladder on 2 gantry poles, 2.1m palisade fencing, and a 1 metre gate.

Full details are shown on the submitted plans.

Relevant Planning History

93/00664 – Telecommunications development notification erection of 15m high mast with 6 no. antennae and 2 no. microwave dishes and 3 no. equipment cabins. Details approved.

97/92807 – Upgrading of cellular telecommunications site. Withdrawn.

97/93298 – Telecommunications notification for the prior approval of details for the erection of a 15m mast with 3 omni-directional antennas and 2 no dish antennas. Details approved.

2000/91694 – Telecommunications development for the prior approval of details for the erection of 15m slim monopole with three antenna, one 200mm microwave dish and one equipment cabin. Details approved.

2000/91924 – Telecommunications notification for the prior approval of details for the replacement of 6 sector antenna, installation of 4 microwave dishes and erection of equipment cabin. Details approved.

2003/91885 – Telecommunications notification for the prior approval of details for installation of 1 no. 10m high EVE lattice mast, 3 no. co. linear antennae, 1 no. GPS antenna, 1 no. 600mm transmission dish, equipment cabin and meter cabinet. Details approved.

2008/92274 – Erection of replacement 18m monopole. Withdrawn.

2019/91209 – Installation of replacement 17.4m monopole supporting 3no antennas with 1no 25m monopole supporting 6no antenna apertures and 3no 600mm dishes and ancillary works. Conditional full permission.

Representations

The application was advertised in accordance with the requirements of Subsection A.3, 6(b) of Schedule 2, Part 16, Class A of the General Permitted Development Order 2015. Publicity expired on 29th June 2023. No representations have been received.

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 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 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:

Subsection 1: ground-based apparatus	
(a) in the case of the installation of electronic communications apparatus (other than a mast), the apparatus,	Pass: The height of the equipment (excluding the mast) would not exceed 15m in

excluding any antenna, would exceed a height of 15 metres above ground level;	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 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;	Pass: The site is not on the highway or within article 2(3) land. The mast's height, excluding the antenna, would not exceed 30m.
(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	Pass: 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 (ii) the mast would, when altered or replaced, exceed the original width of the mast by more than one third.	Pass: The proposal seeks a new installation.

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

(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	Pass: The site is not on article 2(3) land.
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<p>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 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— (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 (ii) the development is within the limitations specified in paragraph A.1(5).</p>	<p>Pass: 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 located in the Green Belt on the Kirklees Local Plan Policies Map.

- **LP4** – Providing infrastructure
- **LP21** – Highway safety
- **LP 23** – Core walking and cycling network
- **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 via the removal of the existing mast ref : 42338. 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. Section 5 of the statement states the existing telecoms site "is to be removed in favour of the new proposed site location."

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 specific requirement for a new radio base station at this location to provide 2G, 3G and 4G coverage and capacity in and around Kirkburton whilst also providing the latest 4G technology and new 5G service provision to the local area. This ensures high quality indoor service provision is maintained.

In this case, three other potential locations for the telecommunications mast have been considered within the locality. These have been discounted due to technical issues.

The lattice tower design is a technical requirement for the operators, without which they would not be able to fit all their technology within the structure and therefore an additional structure would be required within the cell area. The proposed height at 20m is essential for the antennae to clear the surrounding trees and urban clutter and ensure the antennae can reach the target coverage area to maintain and provide new high quality 2G, 3G, 4G and 5G service provision to this part of Kirkburton. If the height of the lattice tower were to be reduced, then the antennae would not be able to operate effectively, leading to a degraded service for the operator's customers, especially for the higher frequency technologies including the latest 4G technology and new 5G service provision.

The proposed equipment cabinets are the least number of cabinets that can be installed in this location to enable the radio base station to operate. If the number of cabinets were reduced, then there would not be sufficient room to house all the operator's equipment. To help blend in with their surroundings, they are proposed to be coloured grey to match the lattice tower.

The new location of the site is in an elevated position above Cinder Hill Woods; these semi-mature trees provide some level of screening to the existing masts to the south and would allow parts of the installation to be shielded from certain vantage points. The site is set down slightly relative to the existing masts such that, although the proposed lattice tower would have a greater overall height compared to the existing masts, it would not appear significantly taller.

The new lattice tower would occupy an elevated position in the landscape, atop a hill with open fields to three sides. It would be adjacent to existing telecommunications structures and would contribute to a proliferation of masts and equipment, including vertical features, in this open countryside location. However, the removal of the existing 17m mast sited 50m to the south of the proposed location would help mitigate the appearance of the new mast. The mature vegetation to the west would also be lower in height than the proposed mast, as demonstrated on the submitted plans although it is accepted this

does provide some screening to the new mast. However it is also noted any benefit of the vegetation would be seasonal, as these are deciduous trees.

The supporting information submitted as part of this application acknowledges the character of the area and states that the installation is required at this location to provide improved 2G, 3G, 4G and new 5G coverage. The agent argues that any harm to the rural character of the locality would be limited given the nature, scale and siting of the additional equipment. It is also noted that permission has previously been granted for similar operations in this locality.

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.”* LP24(a) states that proposals should promote good design by ensuring that *“the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape”*. In this instance, it is considered the proposed telecommunications equipment would be significantly overt and dominant on the local character and landscape, with the harm to visual amenity outweighing the need for infrastructure.

While it is considered that the proposed lattice tower and associated equipment would be out of keeping with the open, rural character of the local area it is considered the removal of the existing mast and tree screening help to mitigate the harm to the appearance and character of the surrounding area. Consequently, the new mast does have a material impact upon the visual appearance of the area although weight is afforded to the removal of the existing mast and partial tree cover.

Moreover further weight is given to development for telecommunications in the NPPF, for the reasons set out above in relation to the siting and appearance of the proposed mast. On balance, therefore it is considered the new mast does have an impact upon visual harm, albeit marginally greater than existing by virtue of the removal of one of the existing masts, the harm is outweighed by the benefit of improved telecommunication infrastructure and thus accords with Policy LP24 of the KLP as well as Chapter 10 of the NPPF.

1.3 – Impact on Residential Amenity

The proposed development would retain a sufficient distance from the nearest residential properties to prevent any detrimental impacts in terms of residential amenity and would therefore comply with Policy LP24 and Chapter 12 of the NPPF.

1.4 – Impact on PROW

The mast would be located in an existing field, adjacent to a PROW. As there are existing masts along this PROW, it is considered that the siting of the mast would not detrimentally impact the users of the PROW over and above the existing situation on site. Officers note that the vehicles and machinery required for the installation of the mast have the potential to block the PROW which would have a detrimental impact on usage of the PROW, and the weight of a crane could cause damage to the surfacing of the PROW. 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 protecting the PROW and highway safety. This would be in accordance with Policies LP21 and LP23 of the KLP. However, Class A of Part 16 does not provide any power to impose a condition although it is advised a footnote be added to the decision notice.

2) Representations

No representations have been received.

3) Conclusion

The principle of development is established by the General Permitted Development Order 2015 (England) (as amended) in so far as siting and appearance are agreed. 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 while the siting and appearance of the development would cause material harm to the built environment it is considered this harm is outweighed by the improvements to telecommunication infrastructure and thus accords with the aims and objectives of Policies LP24 of the Kirklees Local Plan and Chapter 10 of the National Planning Policy Framework.

Recommendation: Approve Prior approval

Decision Authorisation - Delegated Powers

Application Number: 2023/91363

Officer Recommendation: PRIOR APPROVAL GRANT

NOTE: The location of the developments is adjacent to public footpath reference KIR/123/10 and equipment/plant used for the proposed removal of the existing mast and construction of the new tower may result in an obstruction/damage to the public right of way. Under these circumstances it is advised the developer liaise with the Council's Public Rights of Way officers prior to works commencing.

Plans and specifications schedule: -

Plan Type	Reference	Date Received
Location Plan	100 Rev A	19/05/2023
Grouped Plans and Elevations	200 Rev A, 201 Rev B, 300 Rev B, 301 Rev C	10/05/2023
General	Supplementary Information	10/05/2023

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.