

**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 /91384/W

**Site Address Land Adj, 28, Grosvenor Road,
Dalton, Huddersfield, HD5 9HZ**

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

Recommending Officer Lucy Taylor

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

Land Adj, 28, Grosvenor Road, Dalton, Huddersfield, HD5 9HZ

The site relates to a portion of grassed land located within the pavement at the junction of Grosvenor Road and Kingston Avenue in Dalton. Residential development surrounds the site, with dwellings located to the north, east, south and westwards.

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 street pole and additional equipment cabinets.

The proposal would see a 15 metre high 'slim line' phase 9 monopole c/w wraparound cabinet at base, 3 no. additional ancillary equipment cabinets and associated ancillary works. These would be placed on the Grosvenor Road frontage, just within the grassed area.

The pole would be installed approximately 9.6 meters from the north-eastern corner of the grassed area and approximately 11.3 meters from the curtilage boundary of 28 Grosvenor Road to the east. The pole would be colored RAL 7035.

The equipment cabinets would be arranged in a row to the west of the proposed pole, approximately 1.4 meters distance from its base. The cabinets would be colored 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)(England) Order 2015(as amended) on 4th 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: -

- 5G Health and Network Briefing
- SSSI and Planning Statement for CELL street works
- Gov Statement
- Declaration of Conformity with Internal Commission of Non-Ionizing Radiation Protection Public Exposure Guidelines
- Street Works Developer Notice served on Highways Authority

Relevant Planning History

The most relevant planning history related to the following application:-

- 2023/90321 – Prior Notification for proposed telecoms installation – H3G 15m street pole and additional equipment cabinets. *Details Approved March 2023.*

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 14th June 2023.

Letters of Objection

None

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 – no objection, however, suggest that a construction management plan and maintenance plan be agreed with the Local Authority.

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.

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.
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	Pass: Again, the height of the equipment would not exceed 15m.

highway	
(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 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 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 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, this has 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 (LP):

- 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

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

Legislation:

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

Assessment

The site is without notation on the Kirklees Local Plan (KLP).

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 by recognised guidelines.

The applicant has detailed alternative sites / options and why they have been discounted. In this case it is considered that sufficient information has been provided to satisfactorily demonstrate that new infrastructure is required to be installed.

Subject to an acceptable assessment in relation to highway safety, siting and appearance (discussed in detail in the following report) the proposal is concluded to accord with policies LP1, LP2 & LP4 of the KLP and Chapter 10 of the NPPF.

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 within a grass verge and would not intrude into the footway. It is therefore considered that the development would not significantly affect pedestrian safety or convenience.

The site is located on a wide verge at the back of the footway and is set back far enough so as not to impact visibility splays at the junction of Grosvenor Road and Kingston Avenue and does not obstruct the footway.

The Highways DM Team were formally consulted, concluding that they had no objection to the proposed scheme, however, they did suggest that a construction management plan and maintenance plan be agreed with the Local Authority.

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 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 lies within a residential setting. It does not lie adjacent to, or close to, any designated heritage assets. It is considered that a sufficient degree of separation would be maintained between the mast and surrounding residential development for it not to appear cramped. It is considered that it would have no adverse impact upon the wider landscape or townscape. While it is more desirable for proposed masts to be sited on existing buildings or existing telecommunication infrastructure, in this instance it is considered that no other suitable sited can be identified within the immediate vicinity to cover the required cell area. Consequently, while there will inevitably be some degree of visual harm, it is not considered unacceptable to the degree the benefit of quality infrastructure can be outweighed.

The proposal is therefore considered to be acceptable in terms of its visual impact, and therefore in accordance with the aims of Policy LP24(a) of the Kirklees Local Plan, the advice contained within Chapter 12 of the NPPF.

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.

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 are acceptable since they would avoid having a negative impact upon the townscape or landscape, and there would be no impact upon public safety.

Therefore, the proposal conforms to the aims and objectives of Policies LP21, LP24a of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

It is therefore recommended that that Prior Approval should be granted.

Recommendation: PRIOR APPROVAL REQUIRED AND GRANTED

Decision Authorisation: Delegated Powers

Application Number: 2023/91384

Officer Recommendation: Grant Prior Approval

Note: The Council's Highways Development Management Team recommend the submission of a construction management plan and maintenance plan to the Local Authority in conjunction with the proposed development of the hereby approved 5G telecoms installation.

Note: the granting of planning permission does not authorise the carrying out of works within the highway, for which the written consent 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.

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.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Drawing Register	KKS25881_KKS289_95321_HD0299_GA_REV_B	B	11/05/23
Site Location Plan	KKS25881_KKS289_95321_HD0299_GA_REV_B	B	11/05/23
Proposed Site Plan	KKS25881_KKS289_95321_HD0299_GA_REV_B	B	11/05/23
Proposed Site Elevation	KKS25881_KKS289_95321_HD0299_GA_REV_B	B	11/05/23
Developer Notice served on Highways Authority	KKS25881 – GROSVENOR ROAD	-	11/05/23
Declaration of Conformity with Internal Commission of Non-Ionizing	KKS25881_ICNIRP_FORM_LPA_REV_B	-	11/05/23

Plan Type	Reference	Version	Date Received
Radiation Protection Public Exposure Guidelines			
Gov Statement	-	-	11/05/23
SSSI and Planning Statement	KKS25881 – SSSI and Planning Statement for CELL Street Works	-	11/05/23
5G Health and Network – Briefing	-	-	11/05/23

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 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 as it was considered that the proposal was acceptable as submitted.

Report Dated:

3.7.23