

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 /92504/W

Site Address	verge at, Lindley Moor Road, Saledine Nook, Huddersfield, HD3 3XS
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Description	Prior notification for installation of telecommunications proposed arqiva smart metering 3 no. sector antennas at 21m mean mounted on proposed 22.5m streetworks pole, arqiva smart metering 1no. GPS antenna at 4.15m mean mounted on proposed streetworks pole, arqiva smart metering 1no. 3g OMNI antenna at 3.75m mean mounted on proposed streetworks pole, arqiva smart metering equipment enclosure to be installed on a concrete base, arqiva smart metering meter cabinet to be installed on a concrete base
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Recommending Officer	Lucy Taylor
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DECISION – TELECOMMUNICATIONS PRIOR APPROVAL GRANT

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: 10-Oct-2023

Officer Report

Site Description

Verge at, Lindley Moor Road, Salendine Nook, Huddersfield, HD3 3XS

The site relates to a grassed verge located at the junction between Lindley Moor Road and the New Hey Road roundabout. Residential development is located eastwards of the site and further southward, the rest of the surrounding area is predominantly made up of highways and rural land.

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

The site is located within the Green Belt.

Description of Proposal

The applicant is seeking prior notification for installation of telecommunications proposed Arqiva smart metering 3 no. sector antennas at 21m mean mounted on proposed 22.5m streetworks pole, Arqiva smart metering 1no. GPS antenna at 4.15m mean mounted on proposed streetworks pole, Arqiva smart metering 1no. 3g OMNI antenna at 3.75m mean mounted on proposed streetworks pole, Arqiva smart metering equipment enclosure to be installed on a concrete base, Arqiva smart metering meter cabinet to be installed on a concrete base.

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 and following documents have been submitted to support the application: -

- Design & Access Statement

Relevant Planning History

- 2020/91863 – Prior Notification for the installation of a new 18.00m monopole supporting 6 no. antennas with wrap around equipment cabinet at base of column, installation of 3 no. new equipment cabinets and ancillary development – *Details Approved*.

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 20th September 2023.

As a result of the above publicity, 3 representations have been received. All 3 of which were in objection to the proposals. Comments are summarised below.

In objection:

- This could affect the value of my property if wish to move as no one want a aerial at the back of their house.

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

- No consultation took place and no leaflets were delivered informing locals about this project.

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 mast will be on the resident side of Lindley Moor Road and poses an unnecessary risk to residents.

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

- Why do we need any more of these aerial when their several of them across the road.
- What is its purpose, we already have a good communication system, high speed internet, choice of suppliers. Lindley Moor, there is a huge array of communication dishes for emergency services and other systems.

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 the proposed is required in the search area, in this instance, they have confirmed within their submitted documents that it is required.

Consultations

The following consultations have been undertaken for this application with the summarised responses listed below.

KC Highways Development Management – no objection subject to a construction management plan and maintenance plan being agreed.

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*
- 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 electron 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 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 greater;	N/A: The proposal seeks a new installation.
(c) in the case of the installation of a	Pass: The proposed mast (excluding

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;	the antenna) is 22.5m 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; (ii) 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 (ii) 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.

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 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 are 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
- LP21 – Highway Safety
- 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 5th September 2023, 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-designed places
- Chapter 13 - Protecting green belt land

Legislation:

The Town and Country Planning (General Permitted Development)(England) 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

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 13 of NPPF sets out that inappropriate development in the green belt is by definition harmful unless very special circumstances clearly outweigh the harm to the greenbelt.

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.

1) Sequential Approach

The proposal is to provide replacement smart meter network. A key feature of smart meters is that they are continuously connected to data centres to provide and manage the constant flow of data and functionality. Smart meters must therefore be linked to an electronic communications network.

The NPPF establishes the following sequential approach when looking to instal new telecommunication equipment:

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

The applicant has detailed alternative sites / opinions and why they have been discounted. In this case, 10 options for the location of the proposed mast have been explored within the local vicinity, most of these were dismissed on technical grounds including the limited coverage, proximity to power lines and congestion of underground services. One of the alternative sites was dismissed due to the fact that the monopole would have been more exposed at this alternative location than at the site that has been put forward.

In this case, it is considered that sufficient information has been provided to satisfactorily demonstrate that the explored alternative sites would be either unsuitable and/or unavailable or comparably no better than the chosen site.

Moreover the coverage area is predominately located within the green belt other than a small number of sites in Outlane village. Subject to impact upon the green belt it is considered the alternatively sites outside the green belt are close to residential properties and a number of listed buildings. Consequently, locations outside the green belt are less suitable for mast installations.

It is accepted the structure would be inappropriate development in the green belt. However it is not considered that the proposed equipment would disrupt the existing setting of the area or pose detriment to openness. This is because the equipment is slim in design and is to be sited in an already highly urbanised part of the Green Belt (a roundabout), with utilitarian features previously established in very close proximity. As such it would not appear that the proposal would unduly impact upon the Green Belt, to be set within an already urbanised edge. As such the harm to the wider green belt designation is considered to be limited. Chapter 10 of NPPF places significant weight on supporting electronic communication infrastructure which in case is considered to clearly outweigh the harm to the green belt and thus constitutes very special circumstances.

Therefore, subject to an acceptable assessment in relation to highway safety, siting and appearance and residential amenity (discussed below) the proposal is concluded to accord with policies LP1, LP2 and LP4 of the Kirklees Local Plan and Chapter 10 of the National Planning Policy Framework.

1) 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 mixed setting, with residential properties located eastward and further southward and the rest of the surrounding area predominantly made up of highways and rural land.

Firstly, it is considered that the proposed equipment would maintain a sufficient degree of separation from the surrounding residential development for it not to appear in the same context or alongside those residential properties. (approximately 35 metres from the nearest residential boundary of curtilage).

Secondly, given the proposed position of the equipment in the context of the New Hey Roundabout, it is considered that the area in which the proposed equipment would be installed has already been established as urbanised. Upon the same grass verge where several streetlights and road signs have already been erected and another form of telecommunication equipment has been installed across the highway to the west (2020/91863). Whilst the named equipment has previously been installed near to the site, at this stage, it is not considered that the addition of another set of equipment would result in the area becoming overly occupied by this type of development.

Approaches from Lindley Moor Road the proposed mast would largely be obscured by tree cover and once in view the mast is surrounded by other vertical structures including trees, lighting columns and other electronic communication equipment. While the mast would be taller than other structures, the tree cover in particular would largely soften the appearance of the slim profiled mast.

Eastward approaches from New Hey Road is where the mast would be most visible although the mast would be read within the context of a motorway junction with other motorway infrastructure visible such as lighting columns, road signs, motorway gantries, bridge and dual carriageway. Overall the introduction of the mast would not result in an isolated structure or strident feature in the otherwise semi- urban setting.

Westward approaches from New Hey Road the mast would be largely obscured by other buildings and tree cover with only fleeting glances when entering the roundabout.

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 sites could be identified within the immediate vicinity to cover the required area. Consequently, whilst there will inevitably be some degree of visual harm, this will be minimal and is therefore not considered unacceptable.

The proposal is therefore considered to be acceptable in terms of its visual impact and with regard to its impact upon the Green Belt, and therefore in

accordance with the aims of Policy LP24(a) of the Kirklees Local Plan, the advice contained within chapter 10 & 12 of the NPPF.

2) 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 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 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. 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.

3) Residential Amenity:

The mast would be located on the grass verge at the junction of Lindley Moor Road and the New Hey Road roundabout. The site is within a mixed area, with residential properties located eastward and further southward and the rest of the surrounding area predominantly made up of highways and rural land. The nearest residential boundary to the proposed site of the equipment is approximately 35 metres away.

Whilst a mast of this scale, in this location would have the potential to impact upon the amenity of nearby properties, its simple form, separation distance and the fact 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 nearby 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.

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 a certificate to confirm that the proposal is in full compliance with the requirements of the radio frequency (RF) public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP), and the EU Council recommendation of 12 July 1999* "on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)" in all areas legitimately accessible to the public. Officers have no reason to consider that this is incorrect.

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

Conclusion:

The principle of development is established by the General Permitted Development Order 2015 (England) (as amended) in so far as siting and appearance. Consequently and 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: 2023/92504

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
Location Plan	322344-00-004-ML001	1	22.8.23
Proposed Elevations	322344-01-150-ML002	2.A	22.8.23
Equipment Plan Proposed	322344-01-101-ML002	2.A	22.8.23
Design and Access Statement	-	-	22.8.23

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

Report Dated:

9.10.23

