

**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. 2024/N /91222/E

**Site Address CU Phosco Car Park, 35, Westgate,
Cleckheaton, BD19 5LE**

**Description Prior notification for installation of
a 22.5m high mast supporting 6 no.
antennas, 2 no. 0.3m dishes and
ancillary equipment and
installation of 3 no. equipment
cabinets, 1 no. meter cabinet and
ancillary development within a
1.8m height compound**

Recommending Officer Elenya Jackson

DECISION – PRIOR APPROVAL GRANTED

**I hereby authorise the approval/refusal* (delete as appropriate) of this
application for the reasons set out in the officer's report and
recommendation annexed below in respect of the above matter.**

Sarah Longbottom

AUTHORISED OFFICER

Date: 20-Jun-2024

Officer Report

Reference No. 2024/91222

Site Address: CU Phosco Car Park, 35, Westgate, Cleckheaton, BD19 5LE

Proposal: Prior notification for installation of a 22.5m high mast supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment and installation of 3 no. equipment cabinets, 1 no. meter cabinet and ancillary development within a 1.8m height compound.

Site Description

The site relates to an area of hard standing used as parking in association with CU Phosco. The site is contained by a stone wall and has vegetation screening a portion of the site from the public realm. The immediate vicinity of the site is mixed use with residential properties to the north and east.

The site is unallocated on the Kirklees Local Plan, is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity to the site.

Description of Proposal

The proposal is a Prior Notification under Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022 for telecommunications development. The proposal would consist of the installation of a 22.5m high mast supporting 6 no. antennas, 2 no. 0.3m dishes and ancillary equipment and installation of 3 no. equipment cabinets, 1 no. meter cabinet and ancillary development within a 1.8m height compound

The monopole and cabinets would be surrounded by a 1.8m palisade fence.

Relevant Planning History

No relevant planning history

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. The application was publicised by a site notice and neighbour notification letters, which expired on 18th June 2024. As a result of the above publicity, two representations has been received which raised the following concerns:

- Health
- Loss of light
- Conflict of interest in terms of mast supplier

- Property value
- Visual impact

Consultation Response

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

KC Environmental Health – Informal consultation 13/06/2024. No objections

KC Highways DM – Informal consultation 12/06/2024. No objections

Procedural Matters and Policy Context

The above described 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 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 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.

Development is not permitted:

Subsection 1: Ground-Based Apparatus	
a) in the case of the installation of	Pass: The height of the equipment

<p>electronic communications apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;</p>	<p>(excluding the mast and antenna) would not exceed 15m in height.</p>
<p>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;</p>	<p>Pass: The proposal seeks a new installation.</p>
<p>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</p>	<p>Pass: The site is not on the highway or within article 2(3) land. In addition, the mast's height, excluding the antenna, would 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>Pass: 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>Pass: The proposal seeks a new installation which is not located on any land that is 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 by site notice or neighbour letter. As set out above, this has been undertaken.

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.

Kirklees Local Plan 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:

- **LP1** - Achieving Sustainable Development
- **LP2** - Place Shaping
- **LP3** - Location of New Development
- **LP4** - Providing Infrastructure
- **LP21** - Highways and Access
- **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. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** – Achieving Sustainable Development
- **Chapter 10** – Supporting High Quality Communications

- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** – Achieving Well-Designed Places
- **Chapter 14** – Meeting the Challenge of Climate Change, Flooding and Coastal Change

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 Allocation and Visual Amenity

The proposal is required to provide new 5G coverage in order to improve coverage. The submitted site-specific supplementary information document 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 outlined within the Site-specific supplementary information document. The cell search areas for 5G are extremely constrained with a typical cell radius of approximately 250m.

In this case, twelve potential locations for the telecommunications mast have been considered within the locality. These have been discounted based on a multitude of reasons including: structural stability, narrow pavements, proximity to residential properties, lack of space, impact on visual amenity and the site being developed by another company. In particular the fire station training platform is discounted on the basis it would render the upper floors of the tower inoperable due to safety guidance.

It is considered that the siting of the mast is reasonably close to industrial/commercial units and this location benefits from vertical structures including trees and a chimney like structure. Therefore, in this case it is

considered that sufficient information has been provided to satisfactorily demonstrate that new infrastructure is required to be installed in this location.

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 street scene.*”

It is accepted that Local Plan Policy LP4 and Chapter 10 of the NPPF offer significant weight to supporting the delivery of infrastructure. However, Paragraph 119 of the NPPF states that new masts should be sympathetically designed and camouflaged where appropriate.

The new mast would be located on hard standing within an existing car park. Although the mast would have some visibility from public vantage points, it would be sited on ground behind vegetation and set back from the highway.

Whilst vegetation in the vicinity, the tower and existing lampposts are of a lower height, they would offer some form of screening and context to the proposal. Furthermore, a sufficient degree of separation would be maintained between the mast and surrounding residential development for it not to appear cramped.

Although it is more desirable for masts to be located on existing buildings or telecommunication infrastructure, in this case, it is considered that there are no other suitable sites within the immediate vicinity to cover the required cell area. Therefore, whilst there will inevitably be some degree of visual harm, the impact to visual amenity would not outweigh the need for the infrastructure.

Overall and on balance, Chapter 10 places significant weight in favour of telecommunication development and for the reasons set out above in relation to the siting and appearance of the proposed mast, the proposal would not result in undue harm to the visual amenity of the street scene to the degree that it would outweigh the benefit of telecommunication infrastructure improvements and thus in accordance with Policy LP24a of the KLP as well as Chapters 10 & 12 of the NPPF.

1.3 – Impact on Residential AmenityThe mast would be sited on a section of hardstanding within the grounds of CU Phosco car park. The buildings situated north and east of the site are predominantly residential.

Impact on 1 Plait Square, 68 Westgate, Butts Dean:

These properties are located to the north of the application site and Westgate separates the application site from the dwellings. The mast would be set 12.5m away from the kerbside of Westgate and approximately 22m away from the nearest dwelling. It is considered that no significant issues would arise regarding overshadowing/loss of light or overbearing.

Due to the separation distance between the mast and neighbouring properties, no other residential properties would be significantly impacted by the proposal.

In summary, it is considered that the proposal would not have a detrimental impact 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 properties.

KC Highways Development Management were informally consulted as part of this application. The mast would be located within private land and would not impact upon the highway. Any construction vehicles required to carry out the proposed works and future maintenance vehicles will use the adjacent car park. Therefore, the location of the mast, once in place, is not considered to impact on highway safety and as such, Highways DM would not object to the proposals.

1.5 - Impact on 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.

2) Representations

One representation was received in response to the statutory consultations which raised the following concerns:

- Health

Office response: As highlighted in section 1.5 of the report, the applicant has provided confirmation that the proposal would meet ICNIRP guidelines, and

the planning process does not have any further involvement in terms of health.

- Loss of light

Office response: As highlighted in the residential amenity section of the report, the proposal would be set a sufficient distance to not raise any significant concerns regarding overshadowing/loss of light or overbearing.

- Conflict of interest in terms of mast supplier

Office response: The owners of the site and suppliers of the proposal are not a material planning consideration and would be a private matter between relevant parties. This application has been assessed against the requirements for determining whether prior approval would be required for the proposal.

- Property value

Officer response: Property values are not a material planning consideration and therefore officers have no further comments.

- Visual impact

Officer response: The proposal impact on the visual and residential amenity of the vicinity and neighbouring residents has been assessed within the officer report. There is a sufficient distance between the proposal and neighbouring properties to not raise any significant concerns regarding overshadowing/loss of light or overbearing. In addition, the mast would be located in an existing car park, set back from the highway/public realm and located behind vegetation.

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 be 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 would accord with the aims and objectives of Policies LP21, LP24a of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Recommendation: Grant Prior Approval

Plans and specifications schedule

Plan Type	Reference	Issue	Date Received
Site Location Plan	100 B	B	30/04/24
Existing site plan	200 B	B	30/04/24
Existing elevations	300 B	B	30/04/24
Proposed site and block plan	201 B	B	30/04/24
Proposed elevations	301 B	B	30/04/24
Site specific supplementary information	Site No:30635200		30/04/24