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**Report of the Head of Development Management**

**HUDDERSFIELD PLANNING SUB-COMMITTEE**

**Date: 20-Apr-2017**

**Subject: Planning Application 2017/90819 Prior notification for erection of 15m monopole telecommunications antennae and installation of 2no. dishes and 4no. ground based equipment cabinets (within a Conservation Area) Marsden Football Club, 6 Carrs Road, Marsden, Huddersfield, HD7 6JE**

**APPLICANT**

Shared Access Ltd C/O  
Agent

**DATE VALID**

07-Mar-2017

**TARGET DATE**

01-May-2017

**EXTENSION EXPIRY DATE**

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Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral Wards Affected: Colne Valley**

No

Ward Members consulted

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**RECOMMENDATION:**

**Delegate approval of siting and appearance and the issuing of the decision notice to the Head of Development Management in order to complete the list of conditions contained within this report.**

**1.0 INTRODUCTION**

1.1 This application is brought to Sub-Committee at the request of Cllr Donna Bellamy for the following reason:

*{Because of} the amount of public concern that has been raised, and the visual impact it may have on a conservation area'*

1.2 Cllr Bellamy requested a site visit for the application.

1.3 The Chair of Sub-Committee has confirmed that Cllr Bellamy's reason for making this request is valid having regard to the Councillors' Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS**

2.1 The site is located on the north edge of Marsden Football Club's single pitch, adjacent to a small wooded area. Adjacent to the site, to the east, is Holme Valley Mountain Rescue and, to the north, Pearson Funeral Services. Beyond Person Funeral Services is Manchester Road. To the west of the site, running adjacent to the pitch, is Fall Lane.

2.2 The site is near the centre of Marsden and is within Marsden Conservation Area. Approximately 40.0m to the north, across Manchester Road, is 30 Oliver Lane and 125.0m to the south are nos.4 and 6 Carrs Road. These properties are Grade 2 Listed.

### **3.0 PROPOSAL**

- 3.1 The application is a prior notification of proposed development by a telecommunications code system operator. The application seeks the installation of telecommunications equipment; namely a mast, three antenna, two dishes and ancillary equipment, to be sited to the north of the football pitch.
- 3.2 The Mast and Antenna are to have a combined height of 15.0m. Ancillary equipment includes four equipment cabinets. The largest is to measure 1.3m x 0.7m x 1.7m. The mast and cabinets would all be painted Olive Green (RAL 6003). The installation is to be built on a single concrete base.
- 3.3 The proposed mast is required following an existing mast being decommissioned. The existing mast, at New Mill, Brougham Road, Marsden, HD7 6AZ, has received a 'Notice to Quit' from the land owner. The current mast provides 2G coverage only.
- 3.4 The installation is to improve existing network coverage of 2G, 3G and 4G technologies for Telefonica (O2) and Vodafone. These companies provide coverage for various other mobile operations, including Giffgaff, Tesco Mobile, TalkTalk Mobile and Lebara Mobile.

### **4.0 RELEVANT PLANNING HISTORY**

#### **4.1 Fall Lane**

2010/91037: Installation of radio base station consisting of 1 no. 17.5M Jupiter, 830 column, 1 no. cannon type cabinet, 1 no. vodaphone erricon kbs 2106 cabinet & associated ancillary equipment (within a Conservation Area) – Refused

*Reason for refusal: The proposed column, by reason of its height, siting and appearance, would have an adverse impact on the character and appearance of the Marsden Conservation Area and the statement submitted with the application does not conclusively demonstrate all suitable alternative options (in particular, installation on a tall building) have been considered. The proposed development would therefore be contrary to the aims of Policies BE1 and BE5 of the Unitary Development Plan and Government advice contained in PPS5 (Planning for the Historic Environment) and PPG8 (Telecommunications).*

#### **4.2 Peel Street**

2012/93752: Prior notification for installation of telecoms cabinet (within a Conservation Area) – Details Approved

#### 4.3 Royal British Legion

2014/93363: Prior notification for installation of telecommunications equipment – Details Approved

The submitted Planning Statement comments that '*CTIL have not been able to implement the 2014 application as commercial terms have not been agreed with the site provider and are unlikely to be able to be resolved in the future*'

#### 5.0 **HISTORY OF NEGOTIATIONS**

5.1 Formal negotiations have not taken place.

#### 6.0 **PROCEDURAL MATTERS AND POLICY CONTEXT**

6.1 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 Development Plan for Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was published for consultation on 7th November 2016 under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Council considers that, as at the date of publication, its Local Plan has limited weight in planning decisions. However, as the Local Plan progresses, it may be given increased weight in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. Pending the adoption of the Local Plan, the UDP (saved 2007) remains the statutory Development Plan for Kirklees.

#### 6.2 The Town and Country Planning (General Permitted Development) (England) Order 2015

- **Schedule 2, Part 16, Class A:** Electronic communications code operators

#### 6.3 Kirklees Unitary Development Plan (UDP) Saved Policies 2007

- **BE1** – Design principles
- **BE2** – Quality of design
- **BE5** – Conservation Areas
- **T10** – Highway Safety

#### 6.4 National Planning Policy Framework

- **Chapter 5** – Supporting high quality communications infrastructure
- **Chapter 7** – Requiring good design

- **Chapter 12** – Conserving and enhancing the historic environment

## **7.0 PUBLIC/LOCAL RESPONSE**

- 7.1 The application has been advertised by site notices around the site. This is in line with the requirements of the General Permitted Development Order 2015, Schedule 2, Part 16, Class A. The application was also advertised by a press notice in the Huddersfield Examiner. The end date for publicity is 19<sup>th</sup> April 2017. Representations received following the publication of the agenda will be reported to members in the update.
- 7.2 At the time of writing 11 representations have been received in objection to the proposal. No representations have been received in support. The below is a summary of the concerns raised;

### Visual Impact

- The mast would be prominently visible from various views and would be detrimental to the streetscene. This is exacerbated by the area's topography, as views from the hills towards Marsden will see the mast.
- The mast is not traditional or historic in appearance. The design is incongruous in its setting and would be harmful to the Marsden Conservation Area.
- The green paint will not camouflage it and, given its greater height and their sparseness, the trees will provide limited screening.
- Impact on the heritage value of listed buildings within the vicinity, with the heritage assessment makes no reference to.

### Other

- Other developments have been turned down in the area by planning. The proposal would have a greater impact than those previously turned down. Should the development be approved, the proposal may lead to more 'unsuitable' buildings in the area.
- Concerns of how the proposal will impact upon local businesses through interference.
- Impact on the amenity of nearby residents.
- The applicant has failed to demonstrate a need for the proposed mast and the sequential test is insufficient, failing to conclusively demonstrate that all other candidate sites have been investigated.
- Residents dispute that the proposed mast will aid in preserving the heritage of the football pitch. The benefits to Marsden are not universal and are limited to users of certain mobile phone networks.
- Concerns over the pre-submission consultation. The applicant has not undertaken a public meeting prior to submission, despite a request from Cllr Bellamy and MP Mr McCartney. Requests from local residents at pre-submission have not been appropriately considered or acted upon.

- Concerns that the application has not been properly advertised, and that there was discrepancies on the end date of representations on the application's webpage.

## **8.0 CONSULTATION RESPONSES**

### **8.1 Statutory**

The Environment Agency: No objection

Sport England: No objection

K.C. Conservation and Design: No objection to the proposal. The proposal is not anticipated to harm the identified heritage value of the Conservation Area or the surrounding listed buildings.

### **8.2 Non-statutory**

K.C. Trees: No objection

## **9.0 MAIN ISSUES**

- General principle
- Satisfying the sequential approach
- Impact on visual amenity, including the surrounding heritage assets, due to siting and appearance
- Impact on residential amenity due to siting and appearance
- Other impacts due to siting and appearance
- Representations

## **10.0 APPRAISAL**

### **General principle**

- 10.1 The proposal is submitted under the prior notification procedure set out in The General Permitted Development Order 2015, Schedule 2, Part 16, Class A (GPDO). In this instance, the installation does benefit from 'permitted development' under Part 16, in that the apparatus would be less than 20.0m above ground level. Therefore the principle of development is established. Notwithstanding this the local planning authority has advised the applicants that prior approval of the siting and appearance of the development will be required. These are the only two issues that can be assessed as part of this submission, as set out by the GPDO. Advice in National Planning Practice Guidance states this is deliberate as a 'light-touch' process where the principle of development, as in this case, has been established.

- 10.2 There are no saved policies in the UDP regarding telecommunications development. The main guidance is in Chapter 5 of the NPPF: Supporting high quality communications infrastructure. This establishes a general principle in favour of telecommunications development. Paragraph 42 states that; *'Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.'*
- 10.3 The general principle of providing communications infrastructure is supported subject to a more detailed assessment of the siting and appearance of the scheme. The assessment takes into account whether the applicants have undertaken an appropriate sequential approach to choosing this site for the development.

#### Satisfying the sequential approach

- 10.4 Chapter 5 of the National Planning Policy Framework outlines guidance for Telecommunications development. This includes, in paragraph 43, the guidance that *'existing masts, buildings and other structure should be used, unless the need for a new site has been justified. Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate'*.
- 10.5 As this proposal seeks approval for a new mast the applicants have provided details of sequential approach and evidence base for the siting of new base stations. Paragraph 45 of the National Planning Policy Framework establishes that when a new mast is proposed the applicant should demonstrate that they have first explored:
1. Mast and site sharing
  2. Existing buildings/structures
- 10.6 The information provided relates to a 'Cell Search Area'. This is the area where the mast must be located to achieve the required propagation. In total 17 alternative sites were considered which could potentially achieve the required propagation. This includes 9 site sharing and building based installations and 8 new ground base installations. Limiting factors for potential sites include a willing landlord with reasonable commercial terms, adherence to planning and environment policy and other site specific issues such as suitable power supply.
- 10.7 The Sequential Assessment is outlined in Section 10 and Appendix 11 of the submitted Planning Statement. Officers consider that the Sequential Assessment is acceptable, and complies with the requirements of the NPPF. In summary it is considered that the sequential assessment demonstrates that the site is suitable for the development in principle, subject to consideration of its siting and appearance.

Impact on visual amenity, including the surrounding heritage assets, due to siting and appearance

- 10.8 General policies on design relevant to the proposed development are BE1 and BE2 of the Unitary Development Plan and Chapter 7 of the National Planning Policy Framework.
- 10.9 Additionally the site is located within the Marsden Conservation Area. Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 introduces a general duty in respect of conservation areas. Special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Policy BE5 and NPPF Chapter 12 outline the principle of development and restrictions for development in Conservation Areas.
- 10.10 Paragraph 129 of the NPPF requires identification of a heritage asset's significance. The Marsden Conservation Area Appraisal identifies that Marsden is designated as a conservation area due to its special architectural and historic interest. This part of the conservation area, deemed part of the open space at Fall Lane, is included in the conservation area for historic interest as it represents the importance of the social aspects of industrialisation rather than for architectural interest.
- 10.11 The proposed mast and ancillary equipment are of a functional design that is typical of telecommunications equipment. It is of monopole design around 0.5m in diameter with visual screening provided by the adjacent trees and buildings to the north. The mast and equipment are to be painted Olive Green, seeking to lessen its impact when viewed with the surrounding trees. However at an overall height of 15.0m it would be taller than the surrounding structures. The tallest of the adjacent trees is approx.10.0m. For context, streetlamps on Manchester Road are also 10.0m in height. The proposed height is necessitated to achieve the required propagation and preventing the need for several smaller masts in the area.
- 10.12 At 15.0m the top section of the mast would be visible from Manchester Road and across the football pitch from Carrs Road. It is acknowledged that the proposed installation contrasts with surrounding built development, and would form a modern feature between the football pitch, electricity sub-station, funeral directors and mountain rescue premise. Nonetheless planning policy guidance recognises that compromise is often required between what would be ideal and what can practically be achieved to meet the need for improved telecoms development. A range of alternatives have been eliminated, with the proposed site being the sequentially preferable available site. It is not now uncommon in built-up areas to have such functional structures, either close to residential properties or in more remote locations, such as that proposed. Overall officers do not consider that the installation would appear unduly incongruous within the built environment's setting.



- 10.13 In regards to the impact on the Marsden Conservation Area, the proposal is not considered to prejudice the identified heritage value, as set out in paragraph 10.10. The proposal would not detract from the architectural merits and appeal of surrounding buildings or harm the historic context of the Fall Lane recreation ground. Given this the proposal is considered to cause less than substantial harm to the significance of the Conservation Area, because it would introduce functional telecommunications equipment of 15m in height where no such development of this height or appearance exists. Weighing the less than substantial harm against the public benefit of the scheme, the public benefit of providing high quality telecommunications is considered to outweigh the harm caused. This takes into account the results of the sequential approach and that this site is required to replace and existing site that is to be decommissioned.
- 10.14 Listed buildings in the vicinity include no.30 Oliver Lane and Nos.4 and 6 Carrs Road. No.30 is located approximately 40.0m to the north, with a tree screen, Pearson Funeral Service and Manchester Road in between. Nos.4 and 6 are located approx.125.0m to the south of the site and football club. Given the separation distances and intervening features the proposal is not considered to impact on the setting of the listed buildings.
- 10.15 It is therefore considered that the proposal complies with Policies BE1, BE2 and BE5 of the Unitary Development Plan and Chapters 7 and 12 of the National Planning Policy Framework.

#### Impact on residential amenity due to siting and appearance

- 10.16 The closest dwelling is approx.40.0m to the north of the site. The site is separated from this dwelling by trees, the buildings of Pearson Funeral Services and Manchester Road. Given these circumstances it is not considered that the proposed mast would lead to a material loss of amenity to the occupiers of local residents.

#### Other impacts due to siting and appearance

- 10.17 The site is adjacent to several mature trees. The trees are protected by virtue of their location within Marsden Conservation Area. Given the small footprint of the proposed mast and associated equipment K.C. Trees does not anticipate that the proposal would lead to immediate harm or affect the long term viability of adjacent trees. It is noted that progressive tree growth may interfere with the signal of the mast. Nevertheless KC Trees have indicated that the trees are considered to be of poor quality, and some pruning would not be unreasonable, should this be required in the future.
- 10.18 The site is adjacent to Marsden Football Club's pitch. Sport England was therefore consulted. However the proposal is not anticipated to lead to the loss of a playing field; the proposed mast's siting is considered to be on land incapable of forming a playing pitch.

- 10.19 The site is within Flood Zone 3. However, given the nature of the proposed development officers do not object from a flood risk perspective. While not formally defined, Telecommunications development is typically classified as 'Water Compatible' or 'Less Vulnerable' development within the National Planning Policy Framework's Flood risk vulnerability classification. The Environment Agency, a statutory consultee, does not object to the proposal.

### Representations

- 10.20 A total of 11 representations have been received. Many of the issues raised have been addressed within the relevant sections of this report. A response to the other issues raised by objectors is provided below. In summary the issues raised do not materially alter the conclusions reached in this assessment.

- Other developments have been turned down in the area by planning. The proposal would have a greater impact than those previously turned down. Should the development be approved, the proposal may lead to more 'unsuitable' buildings in the area.

**Response:** Each application is assessed on its own merits. Furthermore it is noted that the proposal is for Prior Notification, therefore only Siting and Appearance are considered, as opposed to a standard Planning Application. In regards to application no. 2010/91037, the proposal differs in that the policy context has changed, the mast is not as high and in a less prominent location. Additionally the current application has provided a more robust submission in support of a sequential approach.

- Concerns of how the proposal will impact upon local businesses through interference.

**Response:** No evidence has been provided as to how the proposal would lead to harm to local businesses. It is noted that telecommunications equipment is used throughout built up areas, with typically no identified harm caused to nearby business.

The application has been submitted with a Declaration of Conformity with the guidelines of the International Commission on Non-Ionizing Radiation (ICNIRP) for public exposure. Paragraph 46 of the NPPF states that local planning authorities should not determine health safeguards in respect of telecommunications development if the proposal meets ICNIRP guidelines.

- The applicant has failed to demonstrate a need for the proposed mast and the sequential test is insufficient, failing to conclusively demonstrate that all other candidate sites have been investigated.

**Response:** Paragraph 46 of the National Planning Policy Framework outlines that it is not the Local Planning Authority's place to question the need for telecommunication systems. Officers considered that the submitted

information demonstrates that a satisfactory sequential approach has been taken.

- Residents dispute that the proposed mast will aid in preserving the heritage of the football pitch. The benefits to Marsden are not universal and are limited to users of certain mobile phone networks.

**Response:** The assessment above provides limited weight to the benefit to the Football Club, with the general weight provided by the NPPF in favour of telecommunications development being considered sufficient. The proposed installation is to be shared by numerous mobile phone networks. The submitted Planning Statement has identified a need for the proposed mast to enhance the service these networks provide. Paragraph 46 of the National Planning Policy Frameworks outlines that it is not the Local Planning Authority's place to prevent or question competition between operators.

- Concerns over the pre-submission consultation. The applicant has not undertaken a public meeting prior to submission, despite a request from Cllr Bellamy and MP Mr McCartney. Requests from local residents at pre-submission have not been appropriately considered or acted upon.

**Response:** There is no statutory requirement for a pre-submission consultation meeting to take place. It is not required by the Telecommunication Operator's Code of best practice.

- Concerns that the application has not been properly advertised, and that there was discrepancies on the end date of representations on the application's webpage.

**Response:** Following these comments additional site notices were posted and a further 21 days were provided to allow comments from residents.

## **11.0 CONCLUSION**

11.1 An overarching objective of planning policy is to ensure that everyone enjoys the same degree of access to high quality electronic communication opportunities. Officers considered that the application has justified the need for the proposed mast and satisfied the sequential test for identified the site.

11.2 While concerns of the proposal's potential to harm the Conservation Area are noted, on balance officers considered that the public benefit provided by the Telecommunications mast outweighs the less than substantial harm caused. Therefore, officers recommend that prior approval be given for the siting and appearance of the development applied for.

## **12.0 CONDITIONS**

- 1. Prior approval for siting and appearance subject to works being undertaken in accordance with restrictions and conditions outlined in Part 16 Class A. This includes the development being completed in accordance with the plans and commencement time.**

## **Background Papers**

Previous Planning Applications and history files as noted above under section 4.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f90819>

Certificate of Ownership – Certificate of Ownership are not submitted for prior notification applications.