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**Report of the Head of Development and Master Planning**

**HEAVY WOOLLEN PLANNING SUB-COMMITTEE**

**Date: 05-Sep-2019**

**Subject: Planning Application 2019/91994 Proposed upgrade to existing telecoms site. Proposed F & L 25m slimline lattice tower on new concrete base within extended compound and associated works Firths Garage, 158, Leeds Road, Heckmondwike, WF16 9BJ**

**APPLICANT**

EE Ltd & Hutchinson 3G

**DATE VALID**

12-Jun-2019

**TARGET DATE**

07-Aug-2019

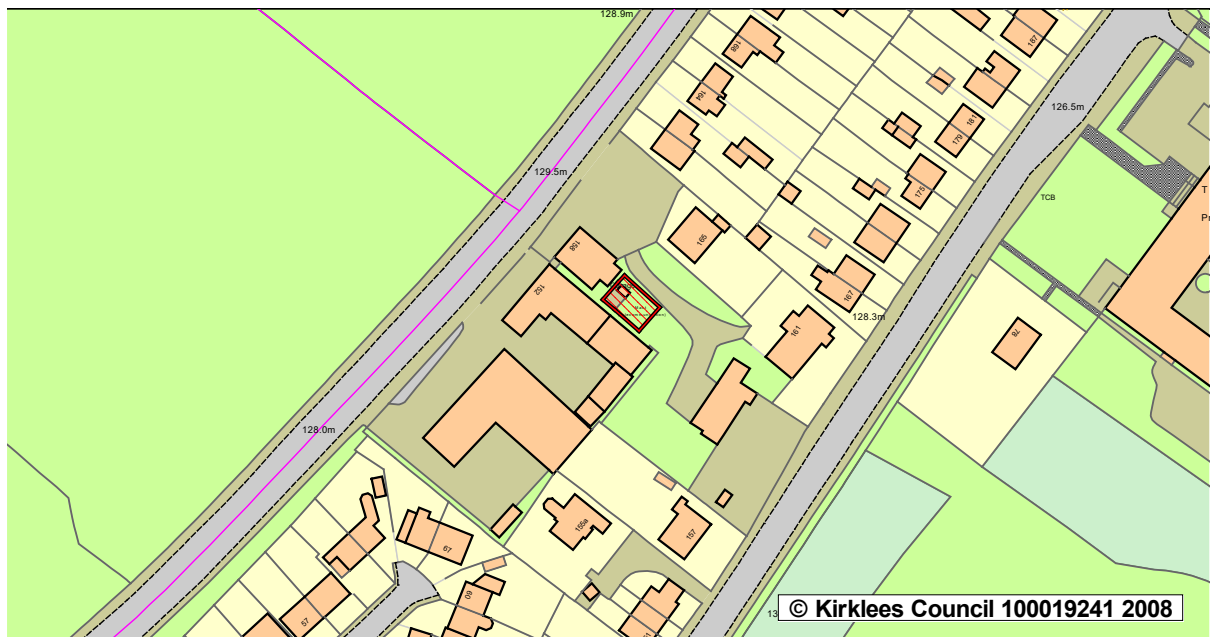
**EXTENSION EXPIRY DATE**

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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: Heckmondwike**

Yes

Ward Members consulted  
(referred to in report)

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**RECOMMENDATION:**

**DELEGATE approval of the application to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report and issue the decision.**

**1.0 INTRODUCTION:**

- 1.1 This application is brought to the Heavy Woollen Planning Sub-Committee at the request of Councillor Steve Hall who states:
- 1.2 *“Due to the proposed increase in height of the telecoms mast and the significant number of local representations received, I think that careful consideration should be given to the impact on visual amenity, especially in terms of the relationship with the existing development, the street scene and the natural landscape / skyline by members of the Heavy Woollen Sub Committee.”*
- 1.3 Further to Councillor Hall’s request, there have been a significant number of written representations received from local residents, who expressed serious concerns regarding the previous telecommunication notification and the current application.
- 1.4 The Chair of the Sub-Committee has confirmed that Councillor Steve Hall’s reason for making this request is valid having regard to the Councillor’s Protocol for Planning Committees.

**2.0 SITE AND SURROUNDINGS**

- 2.1 The site is immediately adjacent to Firths Garage, Leeds Road, Heckmondwike. It currently consists of a 18.0m high telecommunications tower with 6 antennas, several cabinets and associated equipment (15m tower with antenna’s above). The site is separated from its immediate surroundings by a 1.8 metre high chain linked compound fence.
- 2.2 The site is closely surrounded by workshops and light industrial businesses. There are residential properties and schools further away from the site. The site and its surrounding area are mixed in character. To the north-west of the site, on the opposite side of Leeds Road, are open fields, which are allocated Green Belt on the Kirklees Local Plan Policies Map. The site itself is however unallocated.

### **3.0 PROPOSAL:**

- 3.1 This application seeks to upgrade the existing electronic communication apparatus at the application site by removing the existing telecommunications mast and installing a new telecommunications mast with additional antennas, dishes and cabinet.
- 3.2 The proposed development consists of the removal of the existing 15.0m high steel lattice tower with antennas above (a total of 18.0m) and the installation of a new 25.0m high slim-line lattice tower. It would also involve the repositioning of existing antennas and the installation of new antennas, dishes and cabinets.
- 3.3 The proposed mast would be moved from its current position by 3.6m. It would be approximately 25.0m at the highest point and 1.2m at the widest point. The mast would be installed on a new concrete tower base and surrounded by a 1.8m high compound fence. The largest cabinet would be 0.5m high, 0.4m wide and 0.5m deep. The diameter of the proposed dishes would be 600mm.

### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

2019/91471 – PRIOR NOTIFICATION FOR UPGRADE OF ELECTRONIC COMMUNICATIONS APPARATUS (Firths Garage) - Invalid

99/91932 - TELECOMMUNICATIONS DEVELOPMENT FOR THE PRIOR APPROVAL OF DETAILS FOR INSTALLATION OF 15M HIGH TOWER AND RADIO EQUIPMENT HOUSING (Firths Garage) – Details Approved

96/92422 - TELECOMMUNICATIONS DEVELOPMENT FOR THE PRIOR APPROVAL OF DETAILS FOR INSTALLATION OF 15M HIGH TOWER AND RADIO EQUIPMENT HOUSING (Firths Garage) – Details Approved

### **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 No amendments have been sought during the course of this application. However, the applicant has been requested to provide technical justification in terms of the scale and siting of the proposed telecommunications mast. This information was received and considered in the following sections of this report.

### **6.0 PLANNING POLICY:**

- 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 statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is unallocated on the Kirklees Local Plan.

- 6.2 Kirklees Local Plan (KLP):

**LP1** – Achieving sustainable development

**LP2** – Placing shaping

**LP21** – Highway safety

**LP22** – Parking

**LP24** – Design

**LP52** – Protection and improvement of environmental quality

### 6.3 National Planning Policy Framework (NPPF):

**Chapter 2** – Achieving sustainable development

**Chapter 10** – Supporting high quality communications

**Chapter 12** – Achieving well-designed places

**Chapter 15** – Conserving and enhancing the natural environment

### 6.4 Planning Practice Guidance

When is permission required (Reference ID: 13-070-20140306; para.70-72)

### 6.5 Code of Best Practice on Mobile Network Development in England (Edition Published: 24.11.2016)

## 7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 As a result of the statutory publicity for this planning application, 5 representations were received. The issues raised are summarised below:

- The submitted land ownership certificate is incorrect
- The land owner would not give permission to further extend the telecommunications site
- The proposed mast would be visually intrusive and out of character with its immediate surroundings; causing a dominating impact on the skyline
- The proposal would increase the noise impact on the neighbouring occupiers
- There would be an adverse impact on the health of local residents and students
- A previous application to increase the height of the mast was rejected following very strong objection by local residents
- The development proposed would reduce the saleability of properties nearby

7.2 As referred to in the '*relevant history*' section above, 17 representations were made in relation to the previous telecommunication notification that was found to be invalid. The following issues were raised in those representations:

- The proposal would adversely affect the property value
- The design is not in keeping with the area and its setting
- There would be noise and disturbance generated by the proposal
- The proposal would have an adverse impact on the health of the nearby residents and school children
- The proposal would damage the view of the neighbouring properties
- The applicant does not own the site; the landowner is unwilling to sell the land for the purpose of telecommunications
- The proposal would reduce the income of the nearby businesses

## 8.0 CONSULTATION RESPONSE:

The following is a brief summary of consultee advice (more details are contained within the assessment section of the report, where appropriate):

### 8.1 Statutory

**KC Highways Development Management** – No objection to the proposal as it is considered acceptable from a highway safety perspective. No specific conditions are deemed necessary.

**KC Environmental Health Service** – No objection to the proposal in terms of noise, subject to a condition requiring a noise assessment report be submitted and approved by the Local Planning Authority in writing before development commences. This condition should also require the proposal to be carried out in accordance with the approved details in such report and thereafter retained.

### 8.2 Non-statutory:

None

## 9.0 MAIN ISSUES

- Principle of development
- Impact on visual amenity
- Impact on residential amenity
- Impact on highway safety
- Other matters
- Representations

## 10.0 APPRAISAL

### Principle of development

10.1 Chapter 2 of the NPPF introduces the presumption in favour of sustainable development, which is the focus of Policy LP1 of the Kirklees Local Plan (KLP). This policy stipulates that proposals that accord with policies in the KLP will be approved without delay, unless material considerations indicate otherwise. Policy LP24 of the KLP is the overarching policy in relation to the design of all proposals, requiring them to respect the appearance and character of the existing development in the surrounding area as well as to protect the amenity of the future and neighbouring occupiers, to promote highway safety and sustainability. These considerations, along with others, are addressed in the following sections in this report.

10.2 There are no specific policies in the KLP regarding telecommunications development. The main guidance is in Chapter 10 of the NPPF: Supporting high quality communications. This establishes a general principle in favour of telecommunications development. Paragraph 122 of the NPPF states 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'.

- 10.3 The general principle of providing communications infrastructure is supported subject to a more detailed assessment of the scale, siting and design of the proposal. 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 10 of the NPPF sets out guidance for telecommunications development. This includes, in paragraph 133, that the *“use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. 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”*.
- 10.5 The proposal is for the upgrade of the existing electronic communications apparatus at the application site. This upgrade would involve the removal of the existing 18.0m (total height of mast and antenna’s) structure and the installation of a new 25.0m mast and other associated works. The applicant’s Supporting Statement states that the proposal would utilise the telecommunication facilities already installed at the site and would fit in with the existing network. Taking these factors into account, officers consider the proposal to represent the most sequentially preferable option and hence compliant with paragraph 133 of the NPPF.
- 10.6 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 impact on visual and residential amenity, as well as highway safety.

#### Impact on visual amenity

- 10.7 General policies on design relevant to the proposed development are policy LP24 of the KLP and Chapter 12 of the NPPF.
- 10.8 The proposed mast and ancillary equipment would be of a functional design, which is typical of telecommunications apparatus. The mast would be 25.0m high, situated to the rear of Firths Garage and set back from Leeds Road by approximately 20.0m. There would be a separation distance of no less than 50.0m between the proposed mast and Leeds Old Road. Additionally, the mast would be further away from the Green Belt than the existing mast. For these reasons, the proposal is unlikely to result in a significant adverse impact on the amenity of the street scene and on the setting of the Green Belt.
- 10.9 With regard to the visual impact on the surrounding landscape and skyline, it is considered to be, on balance, acceptable in this particular case as the existing mast already constitutes a distinguishable feature of the skyline. Additional to this consideration, there are tall narrow linear structures on both Leeds Road and Leeds Old Road including street light columns and telegraphic poles. Whilst it is acknowledged that the proposed mast would be higher than the existing mast at the site and all other structures in its immediate vicinity, officers consider, for the above reasons, that there would be no fundamental changes to the existing landscape and skyline of the surrounding area. The

fact that the mast would be situated within an existing built up area characterised by a considerable number of light industrial businesses would minimise harm to visual amenity. In this respect, the siting of the proposed mast would be acceptable from a visual amenity perspective.

- 10.10 The form, design and materials of the proposed mast would be very similar to those of the existing mast at the application site. However, the height of the proposed mast would be considerably greater than that of the existing mast. Officers are aware of the significant number of representations made in relation to the height of the mast as proposed. It is also recognised that the proposed mast would be considerably higher than the existing buildings or structures located in this area. This would, to a degree, adversely affect the appearance of the surrounding area. However, the visual impact of the proposal is considered to be, on balance, acceptable in this particular case when taking into account the intended purpose of the mast as well as the existence of a 18.0m (total) high mast at the application site.
- 10.11 The applicant's Supporting Statement states that the increase in height is necessary to make the mast suitable for 5G and so as to facilitate significantly improved connectivity. Further technical justification has been provided by the applicant which states that the new mast would provide an appropriate vertical separation between antennas to halt interference and allow larger and more 5G antennas to be installed safely. The proposed upgrade would be essential to extend the coverage of the existing base station at the application site as well as to enhance mobile connectivity. In view of the above circumstances, along with all other factors already highlighted above, officers consider that the height of the mast is justified with adequate evidence and hence satisfactory in visual amenity terms. Concerning all other works associated with the mast, they would not give rise to any visual amenity issues because they would be modest in scale.
- 10.12 In summary, the proposed mast, whilst greater in height than the existing mast is, on balance, acceptable in terms of its scale, having regard to its intended purposes as well as the existing situation of the application site. The form, design and materials of the mast would be satisfactory from a visual amenity perspective. Furthermore, the proposed mast would be set back further from Leeds Road than the existing mast, which would further mitigate the visual impact of the mast by reason of its increase in height. Thus, officers conclude that the proposal can be, on balance, acceptable from a visual amenity perspective and compliant with Policy LP24 of the KLP and Chapters 10 and 12 of the NPPF.

#### Impact on residential amenity

- 10.13 The proposed mast would be surrounded by predominately non-residential development with the closest residential property being no.165 Leeds Old Road, which is roughly 17.5m away from the mast. There are residential properties in wider area, which are at least 30.0m away from the application site.
- 10.14 Although the mast would be close to the neighbouring property at no.165 Leeds Old Road, it would not unduly prejudice the living conditions of these neighbouring occupants as it would be facing directly towards the gable wall of this property, which does not appear to have any habitable room windows. The mast would be a narrow and open frame structure situated a reasonable

separation distance away from this neighbouring property. Thus, there would be no significant overshadowing and/or overbearing impact on the occupants of this property.

- 10.15 With regard the impact on all other neighbouring properties, this is considered to be minimal when taking into account the separation distance between the proposed mast and these properties. Some representations have identified low frequency noise as an issue associated with the proposed development. KC Environmental Services have been consulted on this matter. It is noted in their consultation response that telecommunication masts and associated equipment have the potential to emit low frequency noise, which may impact on the amenity of occupants of nearby residential properties. However provided adequate mitigation measures are incorporated at the design and installation phase and such measures are adequately maintained throughout the lifetime of the development, Environmental Services do not consider noise to be an undue impact in this instance.
- 10.16 There are no objections from Environmental Services, subject to a condition to require a noise assessment report to be submitted to and approved by the Local Planning Authority before the proposed development commences. This report should include an assessment of all of the noise emissions from the proposed development, the details of existing background and predicted future noise levels at the boundary of nos.161 and 165 Leeds Old Road, Heckmondwike, along with a written scheme of how these neighbouring occupants would be protected from noise generated by the proposed development, including the details of all necessary noise attenuation. The development proposal should not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full; these works should be thereafter retained.
- 10.17 In addition to the concerns regarding the height of the new mast, a significant number of residents were also concerned about the health impact of having a telecommunication mast in close proximity to their properties and gardens. Notwithstanding this concern, paragraph 116 of the NPPF is clear that local planning authority's must determine applications on material planning grounds only and they shall not set health safeguards different from the International Commission guidelines for public exposure. In this case, the applicant has declared that the development proposal complies with the above guidelines in accordance with paragraph 115 of the NPPF. On the basis of the submitted information and having regard to the guidance in the NPPF, officers do not consider the proposal to cause an unacceptable impact on the health and wellbeing of the occupants of the neighbouring properties.
- 10.18 To conclude, the proposed mast would not substantially harm the living conditions of the occupants of the neighbouring properties by way of overshadowing and overbearing. Furthermore, in regard to noise and disturbance, a condition is recommended to be imposed, as set out above. With the inclusion of the suggested condition, the proposal would accord with the aims of Policy LP24 and LP52 of the KLP as well as Chapter 15 of the NPPF.



## Other matters

### *Impact on schools*

- 10.19 There is a noticeable number of comments made in respect of the impact on school children. The proposed mast would be approximately 115.0m from the John Curwen Co-operative Primary Academy and 185.2m from Fairfield School. In accordance with paragraph 115 of the NPPF, the applicant has consulted the schools before submitting this application. No response had been received at the time of the submission.
- 10.20 The proposal has been publicised in accordance with the Kirklees Development Management Charter. Following the statutory publicity, no response has been received from Fairfield School or the John Curwen Co-operative Primary Academy. On the basis of the above, it is considered that the proposal would meet the policy requirement outlined in paragraph 115 of the NPPF. Furthermore, the application is accompanied by an ICNIRP Declaration certificate which confirms that the development complies with the International Commission guidelines for public exposure. There would be no undue detrimental impact on the school children for the same reasons set out in paragraphs 10.15 and 10.16 of this report.
- 10.21 There are no other matters considered relevant to the determination of this application.

## Representations

- 10.22 As a result of the statutory publicity, 5 written representations were received in respect to this planning application and another 17 representations in relation to the previously invalidated telecommunication notification. All issues raised in these representations are addressed by officers as follow:
- The submitted land ownership certificate is incorrect  
**Officer Response:** The applicant has signed Certificate B and served notice on the owner of the site on 30-Apr-2019. On the basis of the above, officers consider this to be a valid application.
  - The land owner would not give permission to further extend the telecommunications site  
**Officer Response:** The ownership of land is not a material planning consideration in so far as the applicant has notified the land owner(s) in accordance with the procedural requirement in the DMPO. Furthermore, the granting of planning permission does not override private legal rights of ownership. The applicant would need to ensure that s/he have the legal right to carry out the approved works. A footnote is recommended to be included on the decision notice for clarification should planning permission be granted.
  - The proposed mast would be visually intrusive and out of character with its immediate surroundings; causing a dominating impact on the skyline  
**Officer Response:** Officers have considered the impact on the skyline as well as on the local street scene. In this instance, whilst the proposal by reason of its height and design would impact on visual amenity to a degree, it would be, on balance, acceptable when taking into account the existing on-site situation, the intended purpose of the development and technical constraints of the proposal. Furthermore, it is considered that the public

benefit of supporting high quality communication infrastructure would outweigh the harm to visual amenity, having regard to the context of the site and its surroundings, in particular the existence of an 18.0m high mast at the site.

- The proposal would increase the noise impact on the neighbouring occupiers

**Officer Response:** Environmental Services have raised no objections to the proposed development in respect of noise and disturbance.

- A previous application to increase the height of the mast was rejected following very strong objection by local residents

**Officer Response:** The telecommunications notification was invalidated as it was not considered to comply with the conditions, limitations and restrictions set out within the Town & Country Planning (General Permitted Development) Order. A full planning application is therefore submitted to seek permission for the same proposal. For transparency, all representations made in relation to the telecommunication notification as well as this planning application have been considered in this report.

- The proposal would adversely affect the property value

**Officer Response:** The impact on property value is not a material planning consideration.

- The proposal would have an adverse impact on the health of the nearby residents and school children

**Officer Response:** The applicant has declared that the proposal would conform to the relevant ICNIRP guidelines as well as those set out in paragraph 115 of the NPPF. It would not conflict with the aims of chapter 10 of the NPPF, as set out in the paragraphs 10.16, 10.18 and 10.19 of the officer report.

- The proposal would damage the view of the neighbouring properties

**Officer Response:** The impact on view is not a material planning consideration.

- The proposal would reduce the income of the nearby businesses

**Officer Response:** The impact on the business prospect of nearby businesses is not a material planning consideration for this application.

10.23 All representations made in respect of the previously invalidated telecommunication notification and this current planning application have been carefully considered and addressed above. It is considered by officers that, in this instance, they would not substantiate reasons to refuse the granting of planning permission.

## 11.0 CONCLUSION

11.1 To conclude, an overarching objective of planning policy is to ensure that everyone enjoys the same degree of access to high quality electronic communication opportunities. Officers consider that the application submission provides sufficient justification regarding the location and height of the proposed mast and has satisfied the sequential test for site selection.

11.2 Whilst concern of the proposal's potential to harm visual and residential amenity are noted, on balance, officers considered that the public benefit of upgrading the existing base station at the application site outweighs the harm caused to visual amenity.

- 11.3 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice. As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

## CONDITIONS

1. Timeframe of 3 years for implementing the development
2. In accordance with the submitted plans
3. Noise assessment report be submitted to and approved by the Local Planning Authority in writing before development commences; development to be carried out in accordance with the approved details and therefore retained (*This is a pre-commencement condition to ensure that the noise impact on neighbouring occupants is adequately addressed before development commences*)

## Background Papers:

*Planning Application web link details:*

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019/91994>

Certificate of Ownership: Certificate of Ownership B has been submitted as part of this application. The applicant confirmed that a notice was served to the land owner of the site on 30-Apr-2019.

*Previous telecommunication notification for upgrade of electronic communications apparatus (2019/91471) (invalid):*

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f91471>