
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 29-Jul-2021

Subject: Planning Application 2021/90119 Installation of 30m high valmont slimline climbable monopole on 6.6 x 6.6 x 1.4m dep concrete base with 6 no. antenna apertures at 330°/90°/210° and 4 no. proposed 600 dishes. RRU's, MHA's, active routers and BOB's to be fixed to headframe below antennas and associated ancillary works Focal Community Centre, New Hey Road, Huddersfield, HD3 4DD

APPLICANT

EE Ltd (UK) & Hutchison
3G UK Ltd

DATE VALID

14-Jan-2021

TARGET DATE

11-Mar-2021

EXTENSION EXPIRY DATE

14-May-2021

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

Electoral wards affected: Lindley

Ward Councillors consulted: No

Public or private: Public

RECOMMENDATION:

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

1.0 INTRODUCTION:

- 1.1 This application is brought before the Strategic Planning Committee for determination under the terms of the Delegation Agreement because the proposal is considered to be a Departure from the Development Plan.
- 1.2 This application was presented to Strategic Committee on 1st July, with a recommendation to grant conditional permission. Members voted to defer the application, for the following reasons:

Clarification and supplementary information requested as follows:

- Permitted Development Rights for telecommunication installations specifying the thresholds for when masts require planning permission
 - Protected areas defined under the Permitted development regulations
 - Why the proposal is the height it is and its location
 - Assessment of visual impact of the proposal and potential for mitigation.
- 1.3 The applicants submitted additional information and the existing details included in the submission documents are included at paragraphs 10.1-10.4
- 1.4 The visual impact of the proposal is assessed in paragraphs 10.20-10.21 under the sub heading Urban Design issues.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site comprises a small area of land near the western boundary of a large field that is used for sports and informal recreation. The field is roughly 210m measured north to south and 120m west to east, bounded by New Hey Road to the north and Willwood Avenue to the south. There is a general downward gradient from north to south.
- 2.2 At the northern end of the field, on the New Hey Road frontage, is the Salvation Army Community Hall and the Focal Activity Centre. The land to the west is occupied by a large warehouse / industrial unit and the boundary is marked by a near-continuous belt of mature deciduous trees. Other than this recreational area, the main surrounding land uses are residential. At the eastern boundary is a footpath connecting New Hey Road with Willwood Avenue and also providing access to a number of residential cul-de-sacs. There is a gate at the north-western corner providing vehicular access.

3.0 PROPOSAL:

- 3.1 The proposal is for the installation of a 30m high Valmont slimline climbable monopole on 6.6 x 6.6m concrete base with 6 no. antenna apertures at and 4 no. 600mm dishes and associated ancillary works. The structure would be 1.4m wide at the base. Several equipment cabinets are to be placed at the northern side of the concrete and the whole is to be surrounded by 2.1m high palisade fencing.
- 3.2 The development would be placed close to the western boundary of the field and about 50m back from the boundary with New Hey Road. The need for the new installation has come about through the operator being given notice to quit their existing site. This is a rooftop installation on the former Oakes Mill roughly 140m to the north-west of the proposed site, which is to be demolished to enable the erection of a new food store that has been approved under application 2019/91656.

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

- 4.1 None

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

- 5.1 03-Mar-2021: Additional information received (further clarification about justification for proposal)

07-Apr-2021: Arboricultural Impact Assessment received

20-Apr-2021: Revised drawings showing netting around monopole.

28-Apr-2021: Revised Arboricultural Impact Assessment received

20-Jul-2021: Further information (predicted coverage maps)

None of the above were re-advertised since they were not considered to raise significant new planning issues.

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).

6.2 Kirklees Local Plan (2019):

- **LP 1** – Achieving sustainable development
- **LP 2** – Place shaping
- **LP 4** – Providing infrastructure
- **LP 21** – Highways and access
- **LP 24** – Design
- **LP 33** – Trees
- **LP 47** – Healthy, active and safe lifestyles
- **LP 61** – Urban Green Space

6.3 Supplementary Planning Guidance / Documents:

None are considered to be applicable in this instance.

6.4 National Planning Policy Framework:

- Chapter 10 – Supporting high quality communications
- Chapter 12 – Achieving well-designed places

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 Expires on 11-Jun-2021 - publicity by site notice and press advertisement in addition to neighbour letter which is required under the terms of the Development Management Procedure Order since the application was considered to be a departure from the Development Plan. Two site notices were posted in the vicinity of the site.

7.2 2 representation received, one opposing the application and one supporting it.

Objection: Summary of concerns raised:

- Health impacts – e.g. on local residents, people using local facilities and the sports field;
- Impact on visual amenity;
- Impact on views towards Marsden Moor.

7.3 Representation in support: Summary of issues raised:

- The new mast is required to replace an existing one on account of the network providers having been given notice to quit, and will need to remove their equipment very shortly;
- If the replacement site is not made available in time, there will be a coverage gap;
- The mast needs to be tall because of the local terrain and the area it will be required to cover;
- It would house two network providers which is simpler than having to find two replacement sites;
- I believe that Sport England's concerns could easily be resolved by discussion.

8.0 **CONSULTATION RESPONSES:**

8.1 **Statutory:**

- Sport England – No objection subject to condition

8.2 **Non-statutory:**

- KC Arboricultural Officer – Acceptable provided that AMS is fully complied with.
- KC Environmental Health – No objections
- KC Planning Policy – (informal response) The proposal does not fall within any of the exemptions listed in LP61(a).

9.0 MAIN ISSUES

- Principle of development
- Urban green space issues
- Urban design issues
- Residential amenity
- Landscape issues
- Highway issues
- Other matters
- Planning obligations
- Representations
- Other matters

10.0 APPRAISAL

Information in response to Committee Decision Deferral 01/07/21

Applicant's justification for 30m monopole

- 10.1 The need for the proposed new mast has arisen principally as a result of the mast operator, MBNL, having been issued with a notice to terminate their existing site. The apparatus on the building has been decommissioned resulting in reduced 2G, 3G and 4G coverage in the local area.
- 10.2 The new mast would also provide new 5G coverage for EE Ltd in order to improve coverage in the HD3 area of Huddersfield. The cell search areas for 5G are extremely constrained with a typical cell radius of approximately 250m meaning that it would not be feasible to site the column outside of this locale. Following the sequential approach, the applicant has determined that there are no opportunities for sharing existing masts, or making use of existing buildings, within this cell. The new site would be shared by H3G, EE and ESN (Emergency Services Network). The mast has to be located as close as possible to the former Oakes Mill site so that it can replace the coverage that has been lost.
- 10.3 The applicant has provided two sets of drawings showing the 4G, 3G and 2G coverage (the latter applicable to EE only) for the two commercial operators that would share the mast, under four scenarios. These are: (i) coverage when the former masts on Oakes Mill, coded 57459, were still operational; (ii) coverage that exists now that 57459 has been decommissioned; (iii) predicted coverage with the proposed 30m mast; (iv) predicted coverage with a 25m mast. The drawings show that for all networks there has been either a significant loss of coverage, or weaker coverage, since the loss of the old site. The installation of a new mast would restore coverage to a substantial area, including parts of Lindley, Oakes, Marsh and Edgerton, and the Infirmary, that would be roughly equivalent to that provided by the old site. However, it shows that with a 25m mast there would be loss of indoor 3G coverage for both networks towards the western edge of the cell, compared to that which would have been provided when the Oakes Mill site was operational. This would equate to a net reduction of about 4% in terms of population covered. This coverage would be fully retained with a 30m mast, and there would be a modest net gain in coverage overall.

- 10.4 It is considered therefore that the applicant has demonstrated a functional need for the new mast and has demonstrated that a 30m mast would fulfil the purpose of providing replacement coverage, something that a 25m mast would not fully achieve.

Clarification regarding Permitted Development Rights

- 10.5 Part 16, Class A of the GPDO part 16 (amended by SI 2016/1040) permits development by or on behalf of an electronic communications code operator including the installation of a new mast, and subject to the Prior Notification procedure. The key limitations are that the mast, including antenna, must not exceed 25m above ground level on unprotected land, or 20m above ground level on article 2(3) land or land which is on a highway.

“Protected land” in this context means Article 2(3), 2(4), 2(5) land – in brief this includes areas protected for heritage or amenity value such as Conservation Areas and Areas of Outstanding Natural Beauty, National Parks, the Broads, certain specified parishes and Enterprise Zones or similar.

In this case, the site is not within any of these designated areas. It should be noted however that the wording of the GPDO does not imply a presumption against taller masts, subject to full planning permission being obtained. The applicant has chosen to apply for full planning permission for a 30m mast because a 20m or 25m mast allowed under permitted development rights would not adequately fulfil its intended purpose for the reasons given in paragraphs 10.1-10.4 above.

- 10.6 It should be noted that in reaching a decision on this planning application the decision maker, the committee in this case, does not have an option of considering a mast at 25 m in height. The scheme is submitted for a 30m mast and the GPDO procedure is not applicable to this proposal because it is above the 25m height threshold for telecommunications masts. For clarification, the information submitted regarding the GPDO prior notification system is to assist the committee in making its decision.

Principle of development

- 10.7 The site lies within land designated urban green space on the Local Plan proposals map. Under Policy LP61, Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where in a limited range of circumstances (assessed in more detail below). The decision-making process should also have regard to the need to protect the stock of playing pitches as set out in Policy LP47(c).
- 10.8 The Local Plan contains no policy explicitly covering telecommunication masts. However, Policy LP4 states that the Council will work with partners to “bring about the necessary and proportionate essential and desirable infrastructure that is required in order to deliver the spatial strategy.” The two paragraphs below are considered to be relevant:
- Paragraph 7.6 (“Employment strategy”) states that “the Local Plan will assist in the creation of jobs in a variety of ways . . . facilitating improvements to transport and telecommunications.”

- Paragraph 11.8 (“Design”): “All telecommunications infrastructure should be capable of accommodating changes in technological requirements, without having a negative impact on the streetscene”.

10.9 The following advice in Chapter 10 of the NPPF is also applicable:

10.10 “The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. 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.”

10.11 “Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and

b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or

c) for a new mast or base station, evidence 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.”

10.12 In this instance, the organisation notified a private day nursery and an infant & nursery school that are in close proximity to the site, and no response was received. The site is not within a statutory safeguarding zone (a). Criterion (b) does not apply. In the case of criterion (c), the developer has explained the functional need for the new mast, as set out in detail in paragraphs 10.1 to 10.5 above and has prepared a scheme that would facilitate the sharing of a mast by multiple operators, helping to minimise the need for further new masts in the area. It is considered that the applicant has complied with the requirements of Chapter 10 of the NPPF in providing a robust justification for the proposal.

10.13 The site lies within land designated urban green space on the Local Plan proposals map. Under Policy LP61, Development proposals which would result in the loss of urban green space (as identified on the Policies Map) will only be permitted where: a. an assessment shows the open space is clearly no longer required to meet local needs for open space, sport or recreational facilities and does not make an important contribution in terms of visual amenity, landscape or biodiversity value; or b. replacement open space, sport or recreation facilities which are equivalent or better in size and quality are provided elsewhere within an easily accessible location for existing and potential new users; or c. the proposal is for an alternative open space, sport or recreation use that is needed to help address identified deficiencies and clearly outweighs the loss of the existing green space.

- 10.14 Examining the proposal against Policy LP61, criteria (b) and (c) do not apply in this instance since the use proposed is not an alternative open space use, nor is any compensatory open spaces use being proposed as part of the application.
- 10.15 Assessing the application under criterion (a), it has not been demonstrated that the land affected by the development is no longer required to meet local needs for sport or recreation. This makes it a departure from the development plan. The development site however only comprises about half of one percent of the total area of the field, and furthermore it would not affect the usability of any formal sports facilities (see paragraph 10.13 below). It is therefore considered that the loss to urban green space would not be significant. Given the functional need for the mast, that it is considered to comply with the advice in Chapter 10 of the NPPF, and that a more suitable location for it is unlikely to be found, it is considered that there are exceptional circumstances that would in this instance justify granting planning permission as an exception to normal planning policy.
- 10.16 Regarding the other considerations in 61(a) it is considered that the existing field makes a modest positive contribution to visual amenity, but that this would not be compromised by the development since by far the majority of the field would be unaffected and the development would be located against the field boundary against the backdrop of a large building. It is considered that the field itself has little biodiversity value and no mature trees would be lost as a direct or indirect result of the development and so it is considered that biodiversity implications would at most be very slight. The field does however provide opportunities for both formal and informal sport and recreation. The part of the field closest to the proposed development is set out as a playing pitch, with goalposts either end.
- 10.17 Sport England, having been consulted, is satisfied that the proposed development meets exception (3) of their playing fields policy, in that the proposed development affects only land incapable of forming part of a playing pitch. Sport England did however raise one specific concern about the risk of balls being lost behind the palisade fence. The latest set of plans submitted by the applicant shows a cone of netting installed around the mast up to about half its height. The intention is that this will stop balls from getting inside the enclosure. Sport England have confirmed that this is acceptable provided that the gauge of the netting is no larger than that used on standard goal nets (120mm x 120mm) and the twine thickness is at least 3.5mm. It would not necessarily keep out tennis and cricket balls, but since the playing field is not set out to formally facilitate either sport, which could be played informally on other parts of the recreation ground away from the mast, this is considered acceptable as the chance of other balls being lost in this way would be low.
- 10.18 It therefore considered that subject to the netting being installed at the appropriate gauge and thereafter retained, the proposed development would comply with the aims of LP47 in that it would not compromise public access to high-quality sports and play facilities.
- 10.19 In summary, the proposed development, because of its location, would be a departure from the development plan. But as it would result in a negligible loss of urban green space, and given the demonstrable need for the development, it is considered that there are exceptional circumstances that would in this instance justify planning permission being granted as an exception to normal planning policy.

Urban Design issues

- 10.20 The northern half of the sports field is near level, but the southern half has a downward slope towards Willwood Avenue and there is a slight downward gradient west to east across the site. The monopole would be placed within a large open field but near its western edge and against a backdrop of a substantial industrial building, which according to the submitted drawings has a height of 12m, and a row of mature trees. Its impact would not be completely disguised by these features but would be substantially mitigated. It is considered that it would not seem overly prominent when viewed from either New Hey Road, Willwood Avenue, or from the nearby residential development to the east. The dimensions, design and appearance of the mast have been determined by functional considerations and it is unlikely that its impact could be mitigated or disguised further. Officers do not recommend that screen planting is undertaken around the compound or the base of the mast since this would, it is considered, draw attention to the structure rather than disguising it.
- 10.21 It is considered that the location chosen for the mast and the associated works is the one that would have the least visual impact and the one that harmonises best with its surroundings. It is also considered that the netting would not in itself be detrimental to visual amenity. It is therefore considered that it would accord with the aims of LP24(a) and Chapter 12 of the NPPF, subject to the palisade fencing being given an appropriate permanent colour finish (dark green or dark brown), which can be conditioned.

Residential Amenity

- 10.22 Equipment cabinets associated with telecommunications masts have the potential to generate noise which may cause disturbance to nearby residential properties. Since the site is a considerable distance from any dwellings, and as Environmental Health have expressed no objections, this is not deemed to be a significant concern in this instance. It is therefore judged to comply with the aims of policy LP24(b) of the Local Plan.

Landscape issues

- 10.23 For the reasons set out in parts 10.16-17 above, it is considered that the proposed mast and associated infrastructure would not have any detrimental impact upon the wider landscape.

Highway issues

- 10.24 The development is not expected to lead to frequent additional vehicle trips to and from the site. Occasional visits for maintenance or monitoring purposes are not considered to create significant implications for highway safety. If and when deemed necessary, vehicles can drive on to the site by means of the gateway at the north-west corner of the site, or alternatively there are opportunities to park safely by the roadside in the local area. It is therefore considered to be compliant with the aims of policy LP21 of the Local Plan.

Planning obligations

- 10.25 No planning obligations need to be entered into in connection with this permission.

Representations

- 10.26 Concerns and comments relating to visual amenity and to the functional need for the development have been examined in the main part of the Assessment but are highlighted here together with other issues raised and officer responses:

Comments against:

- Health impacts – e.g. on local residents, people using local facilities and the sports field;

Response: An ICNIRP declaration was submitted with the application to confirm that it would comply with the Public Exposure Guidelines, and on this basis it is concluded that it would not in itself give rise to a detrimental impact upon public health. As conditioned it is considered it would not have a detrimental impact upon people using the field.

- Impact on visual amenity;

Response: Visual amenity has been assessed in detail in part (2) and it is judged that the impact would be acceptable.

- Impact on views towards Marsden Moor.

Response: The Marsden Moor Estate lies some distance to the west. It is not clearly visible from the sports field or the adjacent public highway. From some vantage points where it is possible to see Marsden Moor from a distance, the monopole might appear in the line of site, but as the monopole would be seen against a backdrop of a large building, mature trees, and gently rising land, it is considered that this would not have any significantly detrimental impact upon distant views or the wider landscape.

Comments for:

- The new mast is required to replace an existing one on account of the network providers having been given notice to quit, and will need to remove their equipment very shortly;
- If the replacement site is not made available in time, there will be a coverage gap;
- The mast needs to be tall because of the local terrain and the area it will be required to cover;
- It would house two network providers which is simpler than having to find two replacement sites;

Response: It is considered that the applicant has demonstrated a need for the proposal, that it would facilitate mast-sharing, and that in all respects it accords with the advice in Chapter 10 of the NPPF.

- I believe that Sport England's concerns could easily be resolved by discussion.

Response: A solution has been designed and can be made the subject of a condition.

Other matters

- 10.27 *Public health:* The proposed development (as amended), for the reasons set out in paragraphs 10.17-10.19 above, would not weaken opportunities for outdoor sport and recreation and would therefore not have a detrimental impact on the health and fitness of people living in the Ward or close to the site. It would therefore be compatible with maintaining healthy and active lifestyles and comply with the aims of LP47.

- 10.28 An ICNIRP declaration was submitted with the application to confirm that it would comply with the Public Exposure Guidelines as required by NPPF Chapter 10.
- 10.29 *Trees:* There is a belt of trees extending along the western boundary, which are not covered by a Tree Preservation Order. The Council's Arboricultural Officer's view is that the main reason for the lack of protection is that they are on Council-owned land and have not previously been under threat of development or loss. An Arboricultural Impact Assessment (AIS) was submitted. The original AIS deems the trees to be of moderate quality (with a few exceptions that are deemed low quality) and confirms that most of them can, and will, be retained. The exception is T6, a common beech, for which removal was recommended as the works would involve substantial excavations within the tree's root protection zone.
- 10.30 The Council's Arboricultural Officer has raised an objection to the loss of T6 on the grounds that it would involve the preventable loss of a tree that could be prevented by a small re-siting of the development. The applicant subsequently submitted an amended AIS which shows the retention of T6, facilitated by additional protective measures within this tree's root protection zone, with root pruning where found to be necessary. The Arboricultural Officer has confirmed the amended AIS is acceptable. It is recommended that approval of the development is conditional on all recommendations in the AIS being adhered to. Subject to this it would accord with the aims of Policy LP33.
- 10.31 The site is in the bat alert layer but it is considered that the proposal would not result in the loss of any features that would potentially provide roosting or feeding opportunities for bats, or have any other significant implications for local ecology. It is therefore considered to be compliant with the aims of LP30 and NPPF Chapter 15.
- 10.32 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan pre-dates the declaration of a climate emergency and the net zero carbon target; however it includes a series of policies which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.
- 10.33 In this instance the applicant has not submitted any supplementary statement or other information to explain how the proposed development would help to address or combat climate change effects. It is considered that as the proposal is demonstrably necessary to avoid a gap in telecommunications coverage occurring and is the most efficient design solution in allowing mast-sharing, in the circumstances the applicant does not need to demonstrate further measures to combat climate change and the proposal is deemed to be in accordance with the aims set out above and set out in NPPF Chapter 14.

11.0 CONCLUSION

- 11.1 It is considered that for the reasons set out in the report the proposed development would fulfil a functional need for replacement and upgrading of telecommunications infrastructure and that whilst it would be contrary to Policy LP61(a) it can be accepted on the basis that it would not result in any significant loss of public opportunities for outdoor recreation. Furthermore, it would, as conditioned, preserve visual amenity and have no adverse impact on public safety or the local environment.
- 11.2 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. 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 it is therefore recommended for approval.

12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)

1. Development shall be begun within three years of the date of the permission
2. Development to be in complete accordance with plans and specifications
3. Netting shown on the drawings to be installed before monopole is brought into use
4. Development to be implemented in full accordance with recommendations in the Arboricultural Impact Assessment.
5. The palisade fencing to have a dark green or dark brown colour finish.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021/90119>

Certificate of Ownership – Notice served on Kirklees Council