

DELEGATED REPORT

Report by Dean Clapworthy	Date of report: 26/09/2022	Ref: 68646/TEL
Registration: 06/07/2022	LDFC: 02/08/2022	Expiry Date: 31/08/2022
Site Visit: 14/07/2022	Site Notice: N/A	Press Date: N/A
Objections: 0	Con Area: N/A	Adv Type: PI
Reason for Delay: N/A		EIA: NA
		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior approval for proposed telecommunications installation of a 25m 'Cypress tree' mast with 6 antennas, 5 cabinets, associated ancillary equipment secured within a 2.1m Cochrane Clearvu fencing with a 3m wide access gate and associated landscaping

Location: Stand Golf Club, Ashbourne Grove, Radcliffe, Manchester, M45 7NL

Description

The proposal relates to an area of Stand Golf Course containing trees of different species and of varying stages of maturity and height. Nearest dwellings to the north of the site are around 80m distant and to the east are around 115m away. A public footpath passes close to the site and the site falls within the Greater Manchester Green Belt.

The proposal is for prior approval for a proposed 25m 'Cypress tree' mast with 6 antennas, 5no. ancillary cabinets and ancillary equipment secured within a 2.1m Cochrane Clearvu fencing with landscaping.

The proposal is stated as being required due to the loss of an existing rooftop site located on The Old School Building, Walker Street, to enable the rollout of 5G technology and also due to increasing local population.

Relevant Planning History

N/A

Publicity

The proposal was advertised by site notice and direct neighbour notification. No representations have been received.

Statutory/Non-Statutory Consultations

None required

Unitary Development Plan and Policies

EN1/10	Telecommunications
EN1/1	Visual Amenity
EN1/2	Townscape and Built Design
EN1/3	Landscaping Provision
EN8/2	Woodland and Tree Planting
OL1/5	Mineral Extraction and Other Development in the Green Belt
NPPF	National Planning Policy Framework

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF) and the adopted Bury

Unitary Development Plan (UDP) together with other relevant material planning considerations. The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP Policy will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

The elimination of discrimination, harassment and victimisation;

The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;

The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

RELEVANT LEGISLATION

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Class A of Schedule 2, Part 16 of the above Order provides that development as described below is permitted:

'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,
- (b) the use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable

structures on the land for the purposes of that use, or
(c) development ancillary to radio equipment housing'.

The proposal comprises of development described under (a) and (c) above and could therefore be permitted development.

However, in relation to ground based apparatus, para A.1 (1) of Class A provides that development as described below would not be permitted development in certain instances and these include:

1) Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than on a building) is not permitted by Class A(a) if -

(a) in the case of the installation of electronic communications apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;

(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;

(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;

(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

(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.

The equipment would be positioned upon unprotected land unrelated to a highway and would not exceed the relevant thresholds under para A.1(1) above.

In relation to radio equipment housing, para A.1(9) provides that the following would not be permitted development:

(9) Development consisting of the installation, alteration or replacement of radio equipment housing is not permitted by Class A(a) if—

(a) the development is not ancillary to the use of any other electronic communications apparatus;

(b) the cumulative volume of such development would exceed 90 cubic metres or, if located on the roof of a building, the cumulative volume of such development would exceed 30 cubic metres; or

(c) on any land which is, or is within, a site of special scientific interest, any single development would exceed 2.5 cubic metres, unless the development is carried out in an emergency.

The proposed equipment housing would be ancillary to the use of the other electronic communications apparatus proposed, would not exceed (b) and would not relate to a SSSI.

Para A.2 of Class A sets out conditions to be satisfied for development to be permitted under Class A and relevant to this proposal are the provisions of paras. A.2(2) and A.2(3) which state:

(2) Class A development is permitted subject to the condition that—

(a) any electronic communications apparatus provided in accordance with that permission is removed from the land or building on which it is situated— (i) if such development was carried out in an emergency, at the expiry of the relevant period; or (ii) in any other case, as soon as reasonably practicable after it is no longer required for electronic communications purposes; and

(b) such land or building is restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.

(3) Subject to sub-paragraph (5), Class A development—

(a) on article 2(3) land, excluding development specified in sub-paragraph (4);

(b) on land which is, or is within, a site of special scientific interest; or

(c) on unprotected land where that development consists of— (i) the installation of a mast; (ii) the alteration or replacement of a mast which, when completed— (aa) is taller than the mast which existed prior to such alteration or replacement; and (bb) exceeds a height of 25 metres above ground level; (iii) the construction, installation, alteration or replacement of radio equipment housing, where the volume of any single development exceeds 2.5 cubic metres, is permitted subject, except in case of emergency (in which case only paragraph A.3(12) applies), to the conditions set out in paragraph A.3 (prior approval).

The site relates to unprotected land and concerns the installation of ground based equipment. Accordingly, the requirements of a prior approval are applicable. In relation to para A.2(2), it is for the developer to comply with this requirement should the equipment be removed.

With regard to prior approval, para A.3(4) of Class A provides that before beginning the development described in paragraph A.2(3), the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development.

National Planning Policy Framework

The NPPF clarifies the government's stance on communication infrastructure and identifies that this supports sustainable economic growth and benefits communities. Paragraph 112 of the NPPF states: '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.'

The NPPF advises Local Planning Authorities to support the expansion of telecommunications networks whilst aiming to keep the numbers of radio and telecommunications masts and the sites for such installations to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures is encouraged (NPPF paragraph 113).

Paragraph 115 of the NPPF goes further by stating that 'Applications for telecommunications development should be supported by the necessary evidence to justify the proposed development. This should include:

- 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 or technical site; and
- 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 on nonionising radiation protection guidelines; or
- 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.'

The applicant has submitted the necessary information required by paragraph 115.

In accordance with the sequential approach outlined in the National Planning Policy Framework (NPPF) the following search criteria have been utilised: consideration has been given to sharing any existing telecommunication structures in the area and secondly consideration is then given to utilising any suitable existing structures or buildings. The only viable option has been put forward is for the proposal (ground based installation) following a Notice to Quit at the present site at 1 Walker Street, Radcliffe, M26 1FH.

PLANNING CONSIDERATIONS

Given the above, the principle of the development is established. In accordance with the provisions of para A.3(4) of Class A, the matters to be considered in this instance are:

- i. Siting
- ii. Appearance

Siting and appearance

The site is located within the Greater Manchester Green Belt close to the established urban edge.

Paragraph 150 of the National Planning Policy Framework (NPPF) states that certain other forms of development (to those exempted at para.149) are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- mineral extraction;
- engineering operations
- local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- the re-use of buildings provided that the buildings are of permanent and substantial construction;
- material changes to the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

Policy OL1/5 states that in the Green Belt, other development, not including buildings, will be inappropriate unless:

- it maintains openness and does not conflict with the purposes of including land in the Green Belt;
- in the case of mineral extraction, it does not conflict with the purposes of including land in the Green Belt and high environmental standards will be maintained and the site restored.
- Proposals for other development not falling into one of the above categories is inappropriate development and is, by definition, harmful to the Green Belt. Any development proposal considered to involve inappropriate development will only be permitted in exceptional circumstances.

The proposed development would be an engineering operation and would be of a form to imitate a tall cypress tree (which is non-native, but relatively common in parks and gardens), which would be set within the immediate context of established maturing, but shorter trees. The mast would reflect the height of a mature specimen and whilst it would clearly have the appearance of an engineered structure at close quarters, its form, proportions and colour would appropriately assimilate when viewed in the wider context of the managed landscape of the golf course.

The site for the proposed development is located within the Green Belt around 80m from the edge of the urban area. The proposed mast would be 25 metres in height and would be partially visible from some of the nearest dwellings that back onto the golf course. However, where views could be gained, they would be likely to be filtered significantly by boundary trees and other clusters/avenues of intervening trees.

5G radio technologies operate in higher frequency bands than older technologies, such as 2G and 3G. Since it operates at higher frequencies where attenuation of the radio signal is naturally higher, and the effects of clutter are much greater, it will normally require a higher structure to achieve the same coverage footprint.

Where filtered views would be available, the proposed mast would be seen against a backdrop of mature trees (varying heights, but up to around 19m in height) which would remain unaffected by the proposed development.

Therefore, the proposed development would be in accordance with Policies EN1/2, EN1/10 and EN8 of the adopted Unitary Development Plan.

Given the above circumstances, the proposed development would not have an unacceptable visual impact of the proposed development and as such, would not have a significant adverse impact upon the openness of the Green Belt. Therefore, the proposed development would be in accordance with policies OL1/5, EN1/2, EN1/10 and EN8 of the adopted Unitary Development Plan and the NPPF.

The public benefits resulting from the improved telecommunication service in the area would significantly outweigh any negligible impacts on the appearance and character of the area.

CONCLUSION

As assessed within this report, the proposed development is permitted development by virtue of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

However, given the Green Belt location of the site it is considered that prior approval is required.

Having regard to the siting and appearance of the proposed telecommunications installation, it is considered that the proposal would not unacceptably impact upon the character and appearance of the Green Belt and the wider locality. Prior approval is therefore granted.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

- 1 This decision relates to drawings:
Site Location Plan (Dwg no. 164009_BRY103_92795_M001 A)
215 Max Configuration Site Plan (Dwg no. 164009_BRY103_92795_M004 A3)
216 Max Configuration Site Plan (Dwg no. 164009_BRY103_92795_M004 A3)
265 Max Configuration Elevation (Dwg no. 164009_BRY103_92795_M004 A3)
and the development shall not be carried out except in accordance with the drawings hereby approved.
Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>

