

DELEGATED REPORT

Report by Helen Pressley	Date of report: 21/12/2022	Ref: 69046/TEL
Registration: 04/11/2022	LDFC: 19/12/2022	Expiry Date: 28/12/2022
Site Visit: 28/11/2022	Site Notice: 28/11/2022	Press Date: N/A
Objections: 5	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 5G telecoms installation comprising H3G 20m street pole and additional equipment cabinets

Location: Footpath at Woodhill Road, opposite junction with Lichfield Drive, Bury, BL8 1BD

Description

The application relates to stretch of footpath along Woodhill Road, that makes up part of the adopted highway.

The proposed development involves the installation of a mast and associated equipment. The proposed mast would be 20 metres tall, located to the rear edge of the footpath. The associated equipment cabinets would be located to the north of the proposed mast.

Relevant Planning History

None

Publicity

Neighbour letters sent 8/11/2022

Site Notice 28/11/2022

5 representations of support received in relation to:

- The range of 5G is less than 4G and older generations so it's no longer feasible to have masts hidden in commercial areas as the range would be wasted.
- Welcome the technology which would benefit not just local residents but also people visiting Burrs Country Park and Kirklees Trails, tourism of the caravan club site, Jersey Girls and East Lancs Railway.
- Will benefit the areas internet problem.
- As a Three user I support this application as signal is quite poor. As someone who works from home it's helpful to have a back up if our broadband service goes down.
- I use the Three network and think that coverage needs to be improved in the area.

5 objections received in relation to:

- As a frequent visitor I object.
- The mast will be obtrusive, ugly & incongruous with the surrounding character, appearance, resulting in detriment to the visual amenities of the area, as well as a harmful impact to the outlook of residential properties nearby.
- May create a visual distraction to road users, & assoc. cabinets would clutter & degrade the area.
- In close proximity to residences, within 500m of site, which will be subjected to high levels of radiation from this mast day & night.
- 5G uses much higher frequency radio waves than in the past & it uses very new-relatively unevaluated, in terms of safety-supportive technology to enable higher data transmission, points out Prof. Frank Univ. of Edinburgh
- Carbon footprint: Each 5G mast requires approx. 3 x more power than a 4G mast (equal

to 73 homes)

- In close proximity (within 500m) to Boomerang Children's Multi-sensory Play Centre - 71.02m, Woodbank Primary school - 295.16m, Bury West and North Childrens' centre - 326.47m, First Steps Day Nursery & Preschool - 463.06m.
- Children are more vulnerable to microwave radiation than adults, see Prof Tom Butler, "On the Clear Evidence of the Risks to Children from Non-Ionizing Radio-frequency Radiation"
- It will contravene the exclusion zone and cannot be justified. The latest evidence fully justifies a 500m setback distance from a mast (both from epidemiological and lab studies). This 500m setback is ten times further than the estimated exclusion zone recommended by ICNIRP.
- An even further setback distance is required to protect those suffering from electro-hypersensitivity (EHS).
- Loss of property value
- The collateral damage of increased energy consumption from 5g is contrary to any Green or Climate change agenda, including Bury's Climate Action Strategy. Please apply caution and refuse this mast.
- I believe that the risks far outweigh the benefit of having a service that may not be used.
- I would question logic of building in a residential area. Surely, a better option would be to place the mast in a commercial area (ie. off Bury Bolton Road near Lidl or Aldi)?
- The Secretary of State is being challenged in the Court of Appeal on failure to give adequate information to the public about the risks of 5G and to explain the absence of a process for investigation of any adverse health effects. The full day Court Hearing will take place on Tuesday, 13th December 2022.
- How can Bury grant permission for a 5G mast when it is clear from UK legal experts that there is NO ENVIRONMENTAL RISK ASSESSMENT OF THE EFFECTS OF 5G?
- This mast will create a blight on the landscape and would be a constant reminder to the risks it poses causing fear, stress, and anxiety for the local community this is a material consideration and should be considered . Mental anguish can result in liability claims for "bodily injury".
- Local Planning Authorities should seek to reconcile the environmental and public health considerations in question, taking due account of the precautionary approach in accordance with defined criteria stated in Environmental impact assessment regulations 2017. The LPA has a duty of care regarding mast applications to determine if the application is an acceptable or unacceptable material planning consideration.
- SWISS RE GROUP - one of the world's largest insurance providers- rated 5G as a "High Impact" risk affecting property and casualty claims- May 2019
- The Radiation Research Trust would like to know if the COUNCIL holds any commercial Public Liability Insurance policies that include liability coverage for claims directly or indirectly arising out of, resulting from or contributed to by electromagnetic fields, electromagnetic radiation, electromagnetism, wireless RF radiation, microwave radiation, and/or non-ionising radiation including, but not limited to 5G? Can the Council please provide all 'Pollution Liability' or 'Policy Enhancement' in relation to commercial Public Liability Insurance policies held by the COUNCIL?
- Does the Council hold any certificates, documents of any kind providing an Environmental and Health Impact Analysis for electromagnetic fields, electromagnetic radiation, electromagnetism, wireless RF radiation, microwave radiation, and/or non-ionising radiation including, but not limited to 5G?
- The information requested is of public interest. Failure to supply proof of Indemnity for 5G wireless RF/EMF radiation, proves that Indemnity for 5G wireless RF/ EMF radiation through the COUNCIL's commercial Public Liability Insurance does not exist.
- The ICNIRP guidelines are set by a small, pro-industry/non-governmental organization of invitation-only, unelected private members who set guidelines for thermal heating. That means ICNIRP is only concerned whether this form of radiation causes burns, heatstroke, or shocks. ICNIRP have faced criticism via the courts, from members of the EU parliament and scientific publications. In truth, the ICNIRP guidelines are deeply flawed and obsolete.
- Many doctors and scientists are raising concerns about the biological effects associated

with nonthermal frequencies, pulsations, and other signalling characteristics. There is a large body of science showing non-thermal biological and health effects from RFR exposure.

- The UK ICNIRP guidelines along with the US guidelines are outdated and obsolete.
- WHP Telecoms Ltd offer ICNIRP as a 'certificate of safety' which does not provide any level of protection for industry or government decision makers
- Considering this information, I call on Bury and planning to dismiss any claims of safety for the phone mast based on ICNIRP.
- Residents including children will be forced to live 24/7 next to a mast that is a known possible carcinogen and without any consultation or informed consent.

2 comments received in relation to:

- After finding exact location of mast, no objections to raise.

Statutory/Non-Statutory Consultations

Traffic Section - Recommendation for refusal

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

EN1/2	Townscape and Built Design
EN1/4	Street Furniture
EN1/7	Throughroutes and Gateways
EN1/10	Telecommunications
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.

Health and Technical Issue

The NPPF states that applications for telecommunications development should include a statement that self certifies that the cumulative exposure, when operational, will not exceed the International Commission on non-ionising radiation protection guidelines. Local Planning Authorities must determine applications on planning grounds. They should not seek to determine health safeguards if the proposal meets International Commission guidelines for public exposure. In this case, the applicant has indicated that the proposal would meet the ICNIRP guidelines through the submission of a certificate.

Supporting information

The agent confirmed within Section 6 of the SSSI that a sequential approach has been adopted when looking for sites. Firstly, consideration is always given to mast and site sharing, consideration is then given to utilising any suitable existing structures or buildings and thirdly, sites for freestanding ground based installations are investigated.

The agent has concluded that due to the constrained site area, a street pole and associated cabinets is the only appropriate solution available in this area.

The agent has put forward 6 alternative sites that have been discounted for the following reasons:

- Unsuitable pavement or grass verge;
- Proximity to residential properties;
- Visibility splay issues.

5G radio technologies operate in higher frequency bands than older technologies, such as 2G and 3G. As it operates at higher frequencies where attenuation of the radio signal is naturally higher, the effects of clutter are much greater. In other words, the antennae would need to be located closer to the target area to achieve coverage than previously.

There is no red edge provided on figure 4, which is the coverage map, within the SSSI and as such, it is not possible to ascertain what is the target search area.

Two alternative sites were identified by the case officer, including the grass verge to the rear of the proposed site and an area of Council owned land adjacent to a footpath known locally as the Kirklees Trail. These alternative sites were put to the agent who was asked if they could confirm if these sites have been assessed as part of the sequential search and if they would be suitable for the proposed development. The agent replied by email stating that the roof type here was not suitable for telecoms installation but without confirming why these sites were not suitable and stated that:

"For speed of roll out it is very helpful for these streetworks solutions to be on the adopted highway. Is there any adopted highways you would recommend?"

This contradicts the sequential approach above and contradicts the statements made in the SSSI. The applicant has jumped to stage three and is restricting that search to land that is adopted highway, further restricting the search area. No reasonable explanation has been provided to discount the two sites put forward by the case officer

Therefore, the applicant has failed to comply with the sequential approach and there is insufficient information provided to demonstrate that there are no alternative sites available. The proposed development would conflict with Policy EN1/10 of the Bury Unitary Development Plan and Section 5 of the NPPF.

Design and Layout

UDP Policy EN1/2 - Townscape and Built Design considers factors including the external appearance and design of the proposal in relation to height, scale, density and layout, relationship to the surrounding area and access and servicing.

UDP Policy EN1/4 - Street Furniture - Seeks to ensure that amongst other factors, the siting and design meets the needs of all users including the mobility impaired, does not detract from highway safety and does not interrupt main pedestrian flows.

UDP Policy EN1/7 Throughroutes and Gateways - seeks to secure a high standard of development along the main routes through the borough.

UDP Policy EN1/10 - Telecommunications states that the Council will give favourable consideration to proposals for new telecommunications developments. In assessing such proposals, the Council will have regard to the following:

- the operating requirements of available and new telecommunications technology, and the national telecommunications network;
- the legal requirements of the telecommunications code systems operators;
- siting and design - including the opportunity for sharing masts or siting on existing buildings, height and ancillary development, landscaping, screening and the type and colour of materials used;
- the visual and physical impact especially on sensitive or special landscapes/buildings.

The proposed mast would be 20 metres high and there would be 3 cabinets. The existing street furniture within the vicinity of the site includes street lights, and road signs and a bus shelter. The proposed mast and cabinets would be viewed against the back drop of a commercial building that reaches a height of approximately 8.5 metres. As such, it is considered that the proposed mast would not be unduly prominent within the street scene.

The nearest residential properties and 65 and 67 Woodhill Road would have an oblique view of the proposed mast and would be separated from the site by a highway and grass verges. As such, the proposed development would not harm the outlook from these neighbouring properties.

Highways Issues

The Traffic Section has objected to the proposal, they consider that the position of the proposed installation would restrict the pedestrian desire line and available width of the footway on Woodhill Road in close proximity to the adjacent mini-roundabout, forcing pedestrians to use an area not intended for use by pedestrians where street furniture and footway drainage is located, which would be detrimental to pedestrian safety.

Therefore, the proposed development would conflict with Policies EN1/2, EN1/4, EN1/7 and EN1/10 of the Bury Unitary Development Plan.

Pre-application discussions

The applicant states on the Site Specific Supplementary Information (SSSI) that the LPA was contacted with regard to pre-application discussions on 21st October 2022 via email. An email was sent to the planning email on the 21st October, the LPA contacted the applicant confirming that a fee is payable for pre-application enquires on the 23rd October. The LPA has charged a fee for pre-application advice for 10 years and no fees were paid for the pre-app enquiry. As such, the pre-application was not progressed and no comments have been provided by the LPA. It is therefore unclear who provided the comments on page 2 of the Supplementary Information. The agents have been made aware of the fees and the fact that no pre-application enquiry will be progressed without the relevant fee on several occasions.

Response to Objectors

As confirmed within the main body of the report Local Planning Authorities must determine applications on planning grounds. They should not seek to determine health safeguards if the proposal meets International Commission guidelines for public exposure. In this case, the applicant has indicated that the proposal would meet the ICNIRP guidelines through the submission of a certificate.

Visual Amenity has been addressed within the main body of the report.

Statement in accordance with Article 35(2) Town and Country Planning (Development Management Procedure) (England) (Amendment) Order 2015

The Local Planning Authority offered solutions to the applicant in order to make the development acceptable. The applicant was however unwilling to amend the plans. Without these amendments the development would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Prior Approval Required and Refused

Conditions and Reasons:

- 1 The sequential approach outlined in the National Planning Policy Framework has not been followed and as such, the application and submitted documents contain insufficient information to enable the alternative sites to be discounted. Therefore, the proposed development would conflict with Policy EN1/10 - Telecommunications of the Bury Unitary Development Plan.
- 2 The proposed installation would restrict the pedestrian desire line and available width of the footway on Woodhill Road in close proximity to the adjacent mini-roundabout, forcing pedestrians to use an area not intended for use by pedestrians where street furniture and footway drainage is located, which would be detrimental to pedestrian safety. The proposed development therefore conflicts with the following policies of the Bury Unitary Development Plan:
EN1/2 - Townscape and Built Design
EN1/4 - Street Furniture
EN1/7 Throughroutes and Gateways
EN1/10 - Telecommunications

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP - 21/12/2022			

