

DELEGATED REPORT

Report by Helen Leach	Date of report: 09/03/2023	Ref: 69335/TEL
Registration: 08/02/2023	LDFC: 07/03/2023	Expiry Date: 05/04/2023
Site Visit: 14/02/2023	Site Notice: 14/02/2023	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 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Location: Grass verge opposite 2 Byron Avenue, Radcliffe, Manchester, M26 3GU

Description

The application site relates to a open grassed area, which is located off Byron Avenue. There are 4 mature trees on the grassed area and a small section has been tarmaced to provide 8 parking spaces.

To the north, east and west of the site, there are single storey bungalows. To the south of the site, there is a grass verge with a row of terraced properties beyond.

Planning consent was refused for a proposed 18 metre high mast in this location on 12 October 2022.

The proposed development involves the installation of a mast and associated equipment cabinets on the pavement grassed area off Byron Avenue. The proposed mast would be 15 metres in height and would be located on the western edge of the grassed area. The three equipment cabinets and associated paving would be located to the north of the proposed mast.

The only difference from the previous application is that the proposed mast has been reduced in height to 15 metres and a more slimline monopole has been proposed.

Relevant Planning History

68829 - Prior approval for proposed 5G telecoms installation: H3G 18m street pole and additional equipment cabinets at land on Byron Avenue, Radcliffe. Prior approval required and refused - 12 October 2022

Publicity

The neighbouring properties were notified by means of a letter on 9 February 2023 and site notices were posted on 14 February 2023.
There has been no response.

Statutory/Non-Statutory Consultations

Traffic Section - Object - insufficient information to ensure that the highway verge can be properly maintained.

Pre-start Conditions - Not relevant.

Unitary Development Plan and Policies

EN1/2 Townscape and Built Design
EN1/4 Street Furniture

EN1/10	Telecommunications
EN7	Pollution Control
EN8	Woodland and Trees
SPD6	Supplementary Planning Document 6: Alterations & Extensions
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 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 confirms 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 provided a list of 5 sites, which were discounted for the following reasons:

- Discounted as the pavement is not adopted by Bury Council.
- Narrow pavement and close proximity to electricity substation
- Close proximity to residential housing and narrow pavement
- Visibility concerns from nearby junction

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.

There are commercial and industrial buildings on Bolton Road, which may be suitable for the installation of equipment. Given that the sequential approach gives priority to existing sites and mast sharing, it is surprising that none of these sites have been included within the discounted options.

Site D3 was discounted as the pavement was not adopted by Bury Council. This is not considered to be a valid reason as the landowner may agree to the siting of the proposed mast and associated equipment on the site. Based on the information within the SSSI, the applicant has not contacted the landowner and as such, this site cannot be discounted.

Site D4 was discounted as it was in close proximity to residential housing and visibility concerns from the nearby junction. There would be 16 metres between No. 1 Leaffield Close and the proposed site and No. 1 Leaffield Close would be on an angle and as such, would not have a direct view. This would be a better relationship than the 13 metres between the proposed mast and the existing bungalows on Byron Avenue, which would have a direct view. As such, if site D4 was discounted due to the impact upon the residential amenity, then the current site should be discounted.

Despite a previous refusal, the applicant has not looked at any alternative sites or amended this part of the Site Specific Supplementary Information and Planning Justification Statement.

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

Design and layout - The proposed mast would be 15 metres in height with 3 cabinets and would be located on the grassed area off Byron Avenue.

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.

The application site contains three mature trees and all of the properties surrounding the grassed area are bungalows and not two storey dwellings as indicated on the proposed elevation plan, which has not been updated despite this forming a reason for refusal on the previous application.

The street lighting columns are 5 metres in height and there is a single telegraph pole, which is approx 8 metres in height. As such, the existing buildings and street furniture in the vicinity are domestic in scale. Despite the reduction in height by 3 metres, the proposed mast would still be substantially higher than the existing street furniture and more than double the height of the existing bungalows. As such, the proposed mast would dominate the surrounding area and would have an adverse impact upon the amenity of the visual amenity of the area. Therefore, the proposed development would conflict with Policies EN1/2 and EN1/10 of the Bury Unitary Development Plan.

Impact upon residential amenity - The proposed development would be located some 13 metres from No. 2 Byron Avenue and all of the existing bungalows would have a direct view of the proposed mast from habitable rooms. As such, the proposed development would have a significant adverse impact upon the residential amenity of the neighbouring properties and would conflict with Policies EN1/2 and EN1/10 of the Bury Unitary Development Plan.

Trees - The proposed mast would be located on a grassed verge and the canopy of one of the mature trees does extend close and potentially overhang the application site. Despite this forming a reason for refusal on the previous application, a tree survey has not been provided and it is unclear if the proposed mast would require any works to the tree. As such, there is insufficient information to assess the impact upon the tree, which is mature and contributes positively to the character of the area. Therefore, the proposal conflicts with Policy EN8 of the Bury Unitary Development Plan.

Highways issues - The proposed development would be located on a grassed verge in the middle of the close. The proposed development would be located opposite No. 4 Byron Avenue and as such, would not impact upon visibility splays. The Traffic Section has objected to the proposal, as there is insufficient information to ensure that adequate accommodation works around the perimeter of the installation will be provided to ensure that the highway verge can continue to be properly maintained. 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 11 August. On Friday 12 August, the LPA replied confirming that a fee is payable for pre-application enquiries. 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, it was not progressed and no comments have been provided by the LPA. It is 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.

The previous application was refused for a number of reasons and the applicant has not engaged in pre-application discussions with the LPA before submitting the current application or attempted to address the reasons for refusal.

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

The proposal would not improve the economic, social and environmental conditions of the

area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. 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 proposed development would, by reason of its size, position and design, be a prominent and intrusive feature in the street scene and would add to the clutter within the streetscene. Therefore, the proposed development would be seriously detrimental to the visual amenities of the area. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy EN1/10 - Telecommunications
- 2 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.
- 3 The proposed development would be detrimental to the amenities of the neighbouring properties property by reason of its height, size and position. The proposed development therefore conflicts with the following policy(ies) of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy EN1/10 - Telecommunications
- 4 The application and submitted plans show two storey properties to the rear of the proposed development, when there are bungalows. As such, the plans are conflicting and there is insufficient information to enable the proposed development to be properly assessed. Therefore, the proposed development conflicts with the following Policies of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy EN1/10 - Telecommunications
- 5 The application and submitted plans contain insufficient information to properly assess the impact of the proposed installation on the adjacent highway trees and does not provide adequate accommodation works around the perimeter of the whole installation to ensure that the highway verge can continue to be properly maintained. Therefore, the proposed development would conflict with the following Policies of the Bury Unitary Development Plan:
Policy EN1/2 - Townscape and Built Design
Policy EN1/3 - Landscaping Provision
Policy EN1/10 - Telecommunications

<u>Case Officer</u> HL 9/3/23	<u>Date</u>	<u>Sign off Officer</u> DM 9/3/23	<u>Date</u>
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