



## **Appendix 3 – Post Application Correspondence**

### **Correspondence received from the Bury Metropolitan Borough Council**

#### **BRY21769 – Sycamore Road**

- **Copy of Officers Report refusing application**

**DELEGATED REPORT**

|                                 |                                   |                                |
|---------------------------------|-----------------------------------|--------------------------------|
| <b>Report by</b> Helen Leach    | <b>Date of report:</b> 06/10/2022 | <b>Ref:</b> 68817/TEL          |
| <b>Registration:</b> 24/08/2022 | <b>LDfC:</b> 27/09/2022           | <b>Expiry Date:</b> 19/10/2022 |
| <b>Site Visit:</b> 31/08/2022   | <b>Site Notice:</b> 31/08/2022    | <b>Press Date:</b> N/A         |
| <b>Objections:</b> 4            | <b>Con Area:</b> N/A              | <b>Adv Type:</b> PI            |
| <b>Reason for Delay:</b><br>N/A |                                   | <b>EIA:</b> NA                 |
|                                 |                                   | <b>Dec Level:</b> DEL          |
|                                 |                                   | <b>Stat Class:</b> NREQ        |

**Proposal:** Prior approval for proposed 5G 16m telecoms installation: H3G street pole and additional equipment cabinets.

**Location:** Land near junction of Sycamore Road & Bury Road, Tottington, Bury, BL8 3EG

**Description**

The application site relates to a grassed verge between two vehicular accesses on Sycamore Road. Adjacent to the road, there is a grassed verge of 4.6 metres in width, then a 2 metre wide footpath and a second grassed area of 15 metres wide with mature trees.

There are residential properties to the north, east and south and playing fields belonging to Walshaw Sports Club to the west.

The proposed development involves the installation of a mast and associated equipment cabinets on the grass verge on Sycamore Road. The proposed mast would be 16 metres in height and would be located in the grass verge, 1.5 metres from the back of the footway. The associated equipment cabinets and paving would be located to the north west of the proposed mast.

**Relevant Planning History**

None relevant.

**Publicity**

The neighbouring properties were notified by means of a letter on 25 August 2022 and 6 September 2022. Site notices were posted on 31 August 2022.

A petition, containing 29 signatures has been received, which has raised the following issues:

- Why should any Council or company take away the simple pleasure of looking out of our front room at the natural trees and bushes that adorn this land
- It is everyone's duty of care to protect the environment and spoiling it is a risk that we should not be taking in this age
- We need to protect the green areas for children and grandchildren
- It is easy to say yes to companies at our expense.
- It is about protecting our already broken planet
- It is time to say enough is enough.

5 letters have been received, which have raised the following issues:

- It would be harmful to the character and appearance of the area as it goes against the aesthetics of the neighbourhood.
- It would be an obtrusive feature in the streetscape and wholly out of keeping in a residential area.
- Not enough research has been taken on the long term effects on health and the environment.

## **DELEGATED REPORT**

- The site has been chosen on a financial basis.
- As a resident, we are supposed to receive a letter about the application, but to date we haven't.
- An option to move the mast and cabinets back on the other grass verge to blend in with the trees would possibly be a better solution, as it would hide the majority of the installation.
- The height of the cabinets could be an issue, so close to a main road junction, with many school children passing as it could be a blind spot.
- Has the Civil Aviation Authority/Secretary of State for Defence been consulted as there is a helipad at the Bolholt Country Park Hotel, which is very close.
- Our main objection is not the technology as we all know we need the expansion to meet the country's needs with communication. Although we are surprised this mast is only for one supplier.
- The first point we need to make is the siting within a metre of a road and public path. The footprint of the mast is reasonably small, but the control boxes are very large and unsightly. The control boxes may cause a black spot for children crossing the road as vehicles may not see pedestrians in time to avoid a collision. The area does see more children than other roads due to the sports club facilities junior section and general children using the field to play on.
- The visual impact is a concern in a semi-rural area and all the houses from 1 Sycamore Rd to 27 Sycamore Rd which have a privately owned and maintained green with open plan gardens and open aspect to the sports field with trees and bushes to make it a country feeling in a disappearing countryside. Both the mast and control boxes are in a direct view from all the properties.
- We feel the applicant has not looked at all the possibilities available in the vicinity and have just gone for the easiest option with no regard to the residents in the immediate vicinity.
- Option 1. Move the mast and control boxes back from the grass road verge to the triangle of grass and trees and ensure the colour of the mast and control panels are green so it blends into the background of trees and bushes. This would make it possible to erect a fence around it and to protect it from vandals. It is unclear who owns this piece of land, but the council can confirm this.
- Option 2. Move the entire mast and control panels to the corner of the sports field which is only 50 meters away from the planned site. This would hide the complete structure from the properties that it would impact and again if the mast and control panels are painted green it will blend into the trees and bushes. Again a fence can be erected to protect it from vandals.
- This is a statement from the residents who do not have access to a computer, who are concerned residents, and urge our planning leaders to act now to consider that the proposal does not meet the criteria of not considering the increased visual amenity to the residents of Sycamore Rd,
- The mast and control cabinets are in direct line that will be visible from residents' front rooms and gardens.
- We believe there are other measures and sites that could be taken to improve this proposal for the residents.
- This is an objection from Walshaw sports club following our management meeting. It was a committee decision to oppose the current positioning of the 5g mast on Sycamore Road, Tottington. We believe it would be an eyesore in its proposed position.
- We believe that a better position would be behind the trees on our club land. This would help the residents as it would only be seen in winter months for short periods in the daytime.
- If no compromise could be reached, then we fully object to its current recommended siting on Sycamore Road. We as a club would attend any meetings regarding this application if that would help.

### **Statutory/Non-Statutory Consultations**

**Traffic Section** - Object - insufficient information in relation to visibility and 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.

**Pre-start Conditions** - Not relevant.

**Unitary Development Plan and Policies**

|        |                                    |
|--------|------------------------------------|
| EN1/2  | Townscape and Built Design         |
| EN1/3  | Landscaping Provision              |
| EN1/4  | Street Furniture                   |
| EN1/10 | Telecommunications                 |
| EN7    | Pollution Control                  |
| EN8    | Woodland and Trees                 |
| 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 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 provided a lists of 6 sites, which were discounted for the following reasons:

- Very residential with insufficient pavements and visibility splay
- Trees are in excess of 18 metres
- Unsuitable pavements and 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 submitted by the objectors and included the grass verge to the north west of the application site and the sports pitches to the west of the site. These alternative sites were put to the agent and asked if these were suitable with an explanation as to why they were not suitable. The agent replied by e-mail confirming that the two sites were not reviewed as:

'For this particular 5G roll out project our remit from the client was to identify suitable sites for 5G street works monopoles which could be accommodated on land which is 'adopted' i.e. under the control of the Local Planning Authority or Highway Authority - footpaths, grass verges etc.'

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 public.

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** - The proposed mast would be 16 metres in height and there would be 3 cabinets.

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 proposed mast would be 16 metres in height and would be located on the grass verge between the footpath and Sycamore Road.

The existing street furniture in the locality includes streetlights, a telegraph pole and road signs. Whilst the proposed mast would be higher than the streetlights and telegraph pole, it would be viewed against the backdrop of the existing mature trees, which are 12 metres in height. As such, the proposed development would not be unduly prominent within the locality.

The nearest residential property on 1 Sycamore Road and would have a blank gable elevation facing the application site and Nos 7 - 19 Sycamore Road would not have a direct view of the site. There are two windows in the gable elevation of No. 138 Bury Road, but the proposed development would be screened by a conifer within the garden to No. 138 and the mature trees on the opposite side of the boundary. As such, the proposed development would not harm the outlook from these neighbouring properties.

Therefore, it is considered that the proposed development would not be visually intrusive and would be in accordance with Policies EN1/2, EN1/4 and EN1/10 of the adopted Unitary Development Plan.

**Highways issues** - The proposed development would be located in the grass verge adjacent to the footpath. The proposed cabinets would be 1.2 metres from the edge of the footpath with paving in front of them. The proposed development would leave a grassed strip of 0.5 metres in width, which would be difficult to maintain. In addition, there is a vehicular access point some 8 metres to the north of the site. No visibility splays (2.4 metres by 33 metres) have been provided on the plans and it is possible that visibility will be obscured by the proposed development. The Traffic Section has objected to the proposal, as there is insufficient information in relation to visibility splays and 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 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 9 August. On Tuesday 9 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.

### **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 application and submitted plans contain 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 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
- 3 The application and submitted plans contain 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 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
- 4 The application and submitted plans contain insufficient information to enable the impact of the proposed development upon visibility from the junction to the north 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 EN1/3 - Landscaping Provision  
Policy EN1/10 - Telecommunications

|                     |             |                         |             |
|---------------------|-------------|-------------------------|-------------|
| <u>Case Officer</u> | <u>Date</u> | <u>Sign off Officer</u> | <u>Date</u> |
| HL - 06/10/2022     |             |                         |             |