

DELEGATED REPORT

Report by Helen Pressley	Date of report: 10/04/2024	Ref: 70560/TEL
Registration: 28/02/2024	LDfC: 02/04/2024	Expiry Date: 24/04/2024
Site Visit: 08/03/2024	Site Notice: 08/03/2024	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 proposal removal and replacement of the existing 15m monopole tower (Antenna top height of 17.8m) with a new 20m tower to host 6no. new antennas, 1no. existing transmission dish alongside ancillary works both to the tower and base.

Location: 26 Whitelegge Street, Bury, BL8 1SW

Description

The application relates to a commercial yard area located off Whitelegge Street. The site is bounded by commercial properties.

Prior approval is sought for the removal and replacement of the existing 15m monopole tower (Antenna top height of 17.8m) with a new 20m tower to host 6no. new antennas, 1no. existing transmission dish alongside ancillary works both to the tower and base.

Relevant Planning History

42709 - Prior approval 15 metre high telecommunications monopole with 6no. panel antennas and equipment room within works building - Approve with Conditions 30/06/2004

Publicity

Letter sent to 54 neighbouring properties on 29/02/2024

Site notice posted on 08/03/2024

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - No response

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

NPPF	National Planning Policy Framework
EN1/2	Townscape and Built Design
EN1/10	Telecommunications
HT6/1	Pedestrian and Cyclist Movement
EN1/4	Street Furniture
JP-P1	Sustainable Places
JP-C1	Our Integrated Network
JP-C2	Digital Connectivity

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), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within 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 and PFE Policies 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.

Policies

Chapter 10 of the NPPF - Supporting high quality communications of the NPPF at para 118 states that 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.

At paragraph 119, 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.

At paragraph 121, 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.

Chapter 12 of the NPPF Achieving well designed places, states that the creation of high quality places is fundamental to what the planning and development process should achieve.

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.

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. This is further supported by PpE Policy JP-P1 Sustainable Places that aims to promote a series of beautiful, healthy and varied places.

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 H6/1 - Pedestrian and Cyclist Movement - Seeks to ensure that pedestrians and cyclists are able to move safely and conveniently, and includes considerations to provide direct and convenient routes, eliminate points of conflict and ensure proposals recognise the needs of pedestrians.

PpE Policy JP-C1 An Integrated Network confirms support to enable the provision of high quality digital infrastructure. This is further supported by PpE Policy JP-C2 - Digital Connectivity that seeks to support the provision of affordable, high quality digital infrastructure by enabling the roll-out of latest generation mobile technology in a way that maximises coverage whilst protecting townscape quality and ensuring an ability to respond to updated/changing technology.

Need for the Development

The government's updated UK Digital Strategy sets out the goal of ensuring that the UK delivers a world leading digital economy, which includes the commitment to provide the latest 5G technology. The applicant states their commitment to following through the

Government's aims and delivering a high quality service and the proposed new upgraded installation and equipment would provide the ability to prepare for the new 5G technology.

The proposed development would upgrade the network in the area to improve coverage and capacity and deliver a high quality service.

The need for the development is accepted in the light of the requirement to provide 5G technology.

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 International Commission on non-ionising radiation protection guidelines. When determining compliance, the emissions from all mobile phone network operators on or near the site are considered.

All operators of radio transmitters are under a legal obligation to operate those transmitters in accordance with the conditions of their license which are conditioned by OFcom. The applicant states that the telecommunications infrastructure the subject of the application would accord with all other relevant legislation and as such would not cause significant and problematic interference with other electrical equipment, air traffic services or instruments operated in the national interest.

Site selection process

Paragraph 119 of the NPPF states that LPA's should aim to keep the number of radio and telecommunications masts sites to a minimum consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified. Mast or site sharing is encouraged.

In accordance with the NPPF and Code of Best Practice in England, the proposal seeks to re-use the existing site for the installation of a replacement structure rather than creating a new site.

Visual Amenity

In terms of its siting, the equipment would be located in the same position as the existing equipment. The site is bound by commercial buildings and 2.4m high palisade fencing.

The applicant has confirmed that the new antennas would be unshrouded for technical reasons, however they have been designed to be as tight as possible to reflect the width of the main column to minimise visual appearance. The higher frequency antennas are unable to operate effectively through the Glass Reinforced Plastic that the shroud is made up of and as such if these antennas were to be covered then they would not be able to provide the necessary coverage to the target coverage area, which would therefore increase the proliferation of masts within the area rather than confining to the existing site.

Within this environment the replacement of existing telecommunications equipment would not appear incongruous within the street scape.

It is considered there would not be a detrimental impact on character of the area and in compliance with the NPPF and UDP Policy EN1/2, and PfE Policy JP-S1.

Residential Amenity

There is approximately 48 metres between the site and the residential amenity space of the nearest dwellings on Byrom Street, which are also separated from the site by a two storey building. As such it is considered the proposal would not be unduly overbearing.

Highways

The proposed structure would be set off the adopted highway.

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

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the National Planning Policy Framework.

Recommendation: Prior Approval Required and Granted

Conditions and Reasons:

- 1 The development must be begun not later than three years beginning with the date of this permission.
Reason. Required to be imposed by Section 91 Town & Country Planning Act 1990.
- 2 This decision relates to drawings numbered 100A, 200A, 201A, 300A, 301A 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 and Places for Everyone Joint Development Plan listed.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP 10/04/2024		DM	10/04/2024