



Appendix 3 – Post Application Correspondence

Correspondence received from the Bury Metropolitan Borough Council

BRY21770 – Heywood Street

- **Copy of Officers Report refusing application**

DELEGATED REPORT

Report by Helen Leach	Date of report: 05/10/2022	Ref: 68821/TEL
Registration: 24/08/2022	LDFC: 22/09/2022	Expiry Date: 19/10/2022
Site Visit: 31/08/2022	Site Notice: 31/08/2022	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 17m telecoms installation: H3G street pole and additional equipment cabinets.

Location: Land at junction of Heywood Street & Benson Street, Bury, BL9 7EB

Description

The application site is located on a tarmac area on a pavement on Heywood Street. The site contains a wide pavement of 3.7 metres wide with a brick wall to the boundary with the commercial units. There are trees located within the pavement.

There are commercial units to the north and northwest and residential properties to the east and south.

The proposed development involves the installation of a mast and associated equipment cabinets on the pavement on Heywood Road. The proposed mast would be 17 metres in height and would be 2.5 metres from the back of the footway. The associated cabinets would be located to the south of the proposed mast.

Relevant Planning History

None relevant.

Publicity

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

Statutory/Non-Statutory Consultations

Traffic Section - Object - the proposed development would be detrimental to pedestrian safety.

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
EN8	Woodland and Trees
EN7	Pollution Control
HT6/2	Pedestrian/Vehicular Conflict
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 6 sites, which were discounted for the following reasons:

- The pavements are of insufficient width
- Located in a residential area

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. Therefore, it is considered for the reasons provided above, that there are no alternative sites that would provide the required coverage.

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 is a cluster of retail properties located 189 metres from the application site and there are several commercial and industrial buildings/sites to the west and north of the site. All of which could be used for the installation of equipment. Given that the sequential approach gives priority to existing buildings/sites and mast sharing, it is surprising that no sites within the neighbourhood shopping centre or the commercial or industrial buildings have not been included within the discounted options.

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 17 metres in height with 3 cabinets and would be located at the rear of the footpath on Heywood Street.

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 existing street furniture in the locality includes streetlights, which are 5 metres in height. All of the buildings in the vicinity of the proposed development are domestic in scale and the industrial building at the rear is 6 metres in height. The proposed mast would be 17 metres in height, which would dominate the surrounding area. Therefore, the proposed development would have an adverse impact upon the visual amenity of the area and would conflict with Policy EN1/2 and EN1/10 of the Bury Unitary Development Plan.

Impact upon residential amenity - The proposed development would be located some 19 metres from the residential properties opposite. The existing dwellings 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.

Highways issues - The proposed development would be located 0.5 metres from the wall at the back of the footway. Due to the presence of mature trees, the proposed development would be located in the main walkway for pedestrians and as such, would reduce the width of the footpath to a substandard level. The Traffic Section has recommended refusal of the application. Therefore, the proposed development would be in accordance 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 9 August. On Monday 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 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 proposed installation would restrict the available width of the footway to sub-standard levels, affect the established pedestrian desire line on Heywood Street and would be out of keeping with all other street features in the immediate vicinity of the application site, which would be detrimental to pedestrian safety. Therefore, the proposed development would conflict with Policy HT6/2 - Pedestrian/Vehicular Conflict of the Bury Unitary Development Plan.

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HL - 05/10/2022			