



Appendix 3 – Post Application Correspondence

Correspondence received from the Bury Metropolitan Borough Council

BRY21699 – Bury Street

- **Copy of Officers Report refusing application**

DELEGATED REPORT

Report by Helen Pressley	Date of report: 14/03/2023	Ref: 69336/TEL
Registration: 08/02/2023	LDfC: 09/03/2023	Expiry Date: 05/04/2023
Site Visit: 16/02/2023	Site Notice: 16/02/2023	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: Pavement outside Radcliffe Hall C of E Methodist Primary School, Bury Street, Radcliffe, M26 2GB

Description

The application site is located on a tarmac area outside Radcliffe C of E/Methodist Primary School. The site contains a wide pavement of 4.5 metres with railings to the boundary with the school. There are 2 trees located close to the application site, with one being on the school's land and the other being on the pavement. There is a sign for the school behind the railings and a sign on the railings, which are at the rear of the application site.

There are residential properties to the south west, south and north of the site. The primary school is located to the northeast and east of the site.

The proposed development involves the installation of a mast and associated equipment cabinets on the pavement outside of Radcliffe C of E/Methodist Primary School. The proposed mast would be 15 metres in height and would be located at the back of the pavement next to the railings and the three equipment cabinets would be located to the south east of the proposed mast.

Relevant Planning History

68812 - Prior approval for proposed 5G 18m telecoms installation: H3G street pole and additional equipment cabinets - 07/10/2023

Adjacent site

58308 - Demolition of link corridor, staff accommodation, prefabricated teaching block structure and dining/kitchen block; Construction of 3 no. classrooms and associated accommodation, new main hall/dining, new main school kitchen and toilets; General external works including construction of new bin store and enlargement of car park area; Creation of new pitched roof and canopy to form focal point for new main school entrance at Radcliffe Hall Primary School, Bury Street, Radcliffe. Approved with conditions - 7 August 2015.

63234 - Replacement boundary facing and gates up to 2.4m high at 7no. locations and extension to existing bin store and hard standing at Radcliffe Hall C of E/Methodist School, Bury Street, Radcliffe. Approved with conditions - 8 November 2018

Publicity

Neighbour letters 09/02/2023
Site notice 16/02/2023

No representations received.

Statutory/Non-Statutory Consultations

Traffic Section - No objection subject to a condition in relation to submission of a scheme for remedial works around the perimeter of the proposed installation on the existing adopted highway.

Pre-start Conditions - Not relevant

Unitary Development Plan and Policies

H1/2	Further Housing Development
H3/1	Assessing Non-Conforming Uses
EN1/1	Visual Amenity
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 confirms within Section 6 of the Site Specific Supplementary Information (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:

- Very residential with insufficient pavements and visibility splay
- 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.

Despite what is stated in the SSSI there is no red outline provided on figure 4, which is the coverage map, and as such it is not possible to ascertain the target search area. Emails with the agent on the 27th February 2023 and 28th February 2023 confirm that the search area is actually the yellow box on the coverage map, and that the area can sometimes be stretched by a small amount if the LPA has any suggestions. It should be noted that the proposal site is some 85 metres to the south of the yellow box set out in figure 4, and the agent did not clarify how far a "small amount" actually equated to.

It should also be noted that an application for a mast at this site has been previously refused due to insufficient information being provided to demonstrate that there are no alternative sites available. Given this it is therefore surprising that the list of discounted sites is identical to the previously refused scheme. The agent was asked on the 15th February, 27th February, 28th February and 1st March to provide details of any further sites that had been reviewed and discounted following the previous reason for refusal. Outside of discounting sites that the LPA put forward during this discussion (but were not identified and discounted by the applicant's themselves during the sequential test) no further list was provided by the agent.

There is an neighbourhood shopping centre located approximately 85 metres from the application site, and adjacent to the yellow box identified as the area of search by the agent. There are also several commercial and industrial buildings in the locality, which could be used for the installation of equipment or should at least be reviewed as part of a

sequential approach and would be located a similar distance from the yellow box search area as the proposal site. Given that the sequential approach gives priority to existing sites and mast sharing, it is surprising that no sites within the neighbourhood shopping centre or the commercial or industrial buildings have been included within the discounted options, or have been reviewed following the previous reason for refusal.

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 existing and proposed plans indicate that there are two signs in the vicinity of the application site. The proposed mast would be located in front of the school sign within the school grounds and the sign on the railings and would block visibility of the information on both signs.

All of the buildings in the vicinity of the proposed development are domestic in scale and the streetlighting columns are 5 metres in height. It is noted that the proposal Whilst the mast has been reduced from 18 metres, to 15 metres following the previous refusal at the site the proposed mast would still be approximately 10 metres higher than any of the adjacent street furniture, and significantly higher than the domestic scale buildings and it is therefore considered that the proposal 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.

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 at the back of the footway and would not reduce the width of the footpath to a substandard level. The proposed development would be located some 5 metres from the junction and as such, would not impact upon visibility splays. The Traffic Section has no objections to the proposal, subject to the inclusion of a condition relating to footway works. 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 agent states in the SSSI that the LPA was contacted with regard to pre-application discussions on 8 August in relation to the previously refused scheme (68812). On Monday 8 August 2022, the LPA replied confirming that a fee is payable for pre-application enquires. 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 agent has not submitted any pre-application requests following the refusal of the previous scheme on the 7th October 2022.

DELEGATED REPORT

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

<u>Case Officer</u>	<u>Date</u>	<u>Sign off Officer</u>	<u>Date</u>
HP	14/03/2023	DM	15/03/23