

DELEGATED OFFICER REPORT

Application Ref: PN/22/93370

Site Address: Land on Corner of Dew Lane and Bill Luffman Way, Eastleigh, SO50 5RZ

Case Officer: Summer Sharpe

Description: Proposed 5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Particular Site Constraints?	Yes ☒	No ☐
- Within urban edge - Within built-up area - SGN Gas pipeline		

Planning History?	Yes ☐	No ☒
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Publicity:	Letters ☒	Site Notice ☒	Newspaper ☐
Representations:	<u>11no. Objections, from 10no. properties summarised as follows:</u> a) impact upon amenity; loss of outlook, b) damage to hedgerow and trees at Dew Lane which provides landscape and habitat, c) concern about size and whether it would fit on the proposed site, d) queries about whether alternative locations have been sought, e) impact upon health, f) too tall, g) neighbour(s) not been consulted, and g) impact house prices.		
Parish Council:	None received.		
Hampshire Highways:	No objection to the proposals from a highway perspective. The location of the mast and associated infrastructure in set in a position that will not affect required visibility splays, or the movement of pedestrians or cyclists.		
Environmental Health:	<u>Comments 4 August 2022 (following amended ICNIRP):</u> This is satisfactory. <u>Comments 3 August 2022:</u> we advise you to obtain from the applicant a certification or statement of ICNIRP compliance signed by a responsible or qualified person. A trainee design technician as included in the application bundle of documents is neither of these.		
EBC Arboriculturalist:	Whilst there is a large tree across the road from the site, there are no significant trees within influencing distance of the proposed location of the mast and associated infrastructure. Therefore, we raise no arboricultural objection to the proposals.		

Policy:
Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
Development Plan:
<u>Eastleigh Borough Local Plan 2016-2036</u> Policies: S1 (Delivering sustainable development), S4 (Employment provision), DM1 (General development), DM9 (Public utilities and communications), and DM13 (Transport).
National Planning Policy Framework

Supplementary Planning Documents:
Quality Places, and Trees and Development.

Site Visit

Yes ☒

No ☐

4 August 2022.

Assessment:

Site & Surroundings

The application site comprises a grassed verge on a corner location where Dew Lane meets Bill Luffman Way. Dew Lane is located to the north of the application site, and Bill Luffman Way is located to the east. The site is relatively small, but fairly prominent given its corner siting.

The wider surrounding area predominantly comprises residential properties.

Proposal

The application proposes 5G telecoms installation: H3G 15m street pole and additional 3no. equipment cabinets.

Schedule 2, Part 16, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) allows certain development by communications code operators to be carried out, subject to first submitting an application to the local authority to determine if prior approval is required in relation to siting and appearance.

Assessment Against Schedule 2, Part 16, Class A of the GPDO:

In accordance with condition A.3 of Part 16 of the GPDO, the application has been submitted for a determination as to whether prior approval is required in relation to the siting and appearance of the proposal.

Class A - electronic communications code operators sets out the following criteria:

Permitted Development:

A. Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of—

- (a) the installation, alteration or replacement of any electronic communications apparatus,
- (b) the use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or
- (c) development ancillary to radio equipment housing.

Development not permitted: ground-based apparatus

A.1—(1) Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than on a building) is not permitted by Class A(a) if—

- (a) in the case of the installation of electronic communications apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;
 - The ground-based apparatus would not exceed 15m above ground level, there are 3no. cabinets proposed which would have a maximum height of approx. 1.8m.

(b) in the case of the alteration or replacement of electronic communications apparatus (other than a mast) that is already installed, the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;

- The ground-based apparatus would not alter or replace any existing apparatus, it would be new equipment.

(c) in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of—

(i) 25 metres above ground level on unprotected land; or

(ii) 20 metres above ground level on article 2(3) land or land which is on a highway;

- The proposed mast would be located on a highway whereby the proposed maximum height of the mast would be 15m.

(d) in the case of the alteration or replacement of a mast, the mast, excluding any antenna, would when altered or replaced—

(i) exceed the greater of the height of the existing mast or a height of—

(aa) 25 metres above ground level on unprotected land; or

(bb) 20 metres above ground level on article 2(3) land or land which is on a highway; or

(ii) together with any antenna support structures on the mast, exceed the width of the existing mast and any antenna support structures on it by more than one third, at any given height

- The proposal would not replace an existing mast, would not exceed 20m, given it is located on a highway, nor would it exceed the width of an existing mast.

Assessment of proposal against above criteria

To conclude, the proposal which is for the installation of ground-based electronic communications apparatus by an electronic communications code operator complies with the criteria set out within Class A.1.

Assessment of proposal in relation to siting and appearance

Strategic Policy S4 (3e) notes that the provision of high-speed telecommunication facilities to serve Eastleigh and the rest of the Borough's settlements will be encouraged. Policy DM1 states that new development should seek to respect the context of the site and its surroundings, and Policy DM9 makes specific regard to public utilities and communications, and notes that there is general support for new/ improving existing facilities, providing that it can be demonstrated that alternative sites and means of provision including mast-sharing have been examined and there are no feasible alternatives.

Further to this, Paragraph 114 of the NPPF advises that 'advanced, high quality and reliable communications infrastructure is essential for economic growth', whilst also stating in Paragraph 115 that the use of existing masts, buildings and other structures should be encouraged. Where new sites are required, equipment should be 'sympathetically designed and camouflaged where appropriate'.

In terms of appearance, the proposed telecommunication equipment would have a utilitarian and functional design. This would appear uncharacteristic of the surroundings, where there is limited street furniture, (comprising some streetlights and street trees), thus would be considerably higher than this general street paraphernalia. The siting of the proposed mast would be on a prominent corner location, not screened by any existing street paraphernalia or vegetation. As such, views could be obtained of the proposals from Dew Lane, Bill Luffman Way, and potentially even Leigh Road. Owing to the corner location, combined with its height, appearance and limited surrounding street furniture, the introduction of a 15m monopole and associated equipment, would create visual clutter,

would be out of keeping, and would be considerably higher than the existing street paraphernalia and the nearby neighbouring buildings, thus would have a harmful impact upon the visual amenity of the wider surroundings.

Whilst acknowledging Paragraph 114 of the NPPF, that high quality communications infrastructure is essential for economic growth, and Paragraph 117 advises that applications should be supported by necessary evidence to justify the proposal. There is also a requirement, under Paragraph 115, that 'equipment should be sympathetically designed and camouflaged where appropriate'. In this instance, it is not considered that the proposal is sympathetically designed or camouflaged, and therefore would conflict with national advice. It would therefore be concluded that the wider economic benefits of providing communications infrastructure would not be considered to outweigh the harm to the visual amenity of the area.

Amenity

Policy DM1 of the Eastleigh Borough Local Plan (2016-2036) amongst other matters, stipulates that all new development should not have an unacceptable impact upon residential amenities of both new and existing residents.

The applicant has submitted an ICNIRP declaration which states that the proposals are in compliance with the requirements of the radio frequency public exposure guidelines on the International Commission on non-ionising Radiation Protection. This meets the current government requirements (as outlined in Paragraph 117 of the NPPF) and satisfactorily addresses the issues of potential or perceived health risk, and the particular circumstances of this case would not merit a departure from these requirements or outweigh national policy guidance.

The Council's Environmental Health Officer (EHO) has been consulted as part of this application. Initially they noted that the ICNIRP had been signed by a trainee, following discussions with the agent they provided an amended ICNIRP which the EHO has agreed.

Given that the application includes the required declaration that the installation will comply with the requirements of the International Commission for non-ionising radiation protection, this matter would be considered acceptable.

Other Matters

It is noted that there is a gas pipeline within close proximity to the application site. It should be noted that had the application have been recommended for approval an informative would have been attached to the decision notice, to inform the applicant that they would need to seek and obtain the necessary consents from the statutory undertaker.

In terms of objections, whilst it is acknowledged that there have been objections on this application, Paragraph 118 of the NPPF, states that "Local planning authorities must determine applications on planning grounds only". Therefore, some of the objections made are not considered valid on planning grounds. It is also noted within a couple of the objections that some neighbours were not individually consulted. The LPA would advise that the Regulations state that a site notice shall be displayed near the land which the application relates for not less than 21 day or serve notice on any adjoining owner or occupier. Some neighbours were consulted by way of letter, however, there was a site notice displayed 26 July 2022. The LPA have therefore undertaken their statutory duty by consulting neighbours *and* putting up a site notice.

Equalities Act:

Section 149 of the Equalities Act 2021 created the public sector equality duty. Section 149 states:

- A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

When making policy decisions, the Council must take account of the equality duty and in particular any potential impact on protected groups. It is considered that this application does not raise any equality implications.

Climate Change:

In July 2019, the Council declared a Climate Change and Environmental Emergency. In doing so it agreed, among other things, to: (a) put in place measures to ensure the Council's own operations and functions achieve carbon neutrality by 2025; (b) work with partners to aim for all projects and services delivered in the Borough to achieve carbon neutrality by 2030; (c) ensure that the Council's procurement policy recognises carbon neutrality as one of its primary considerations; and (d) recognise the urgency of action to mitigate and adapt to climate change in every decision taken by the Council. This is underpinned by the Climate and Environment Emergency Strategy 2020-2030 and the supporting Climate and Environmental Emergency Action Plan – Update June 2020.

The declaration of the Climate Change and Environmental Emergency demonstrates a strong commitment from the Council to achieve net zero. The NPPF and development plan do not set this as a specific target, but it is a material consideration to be considered alongside all other material considerations. In any case addressing climate change is a core part of the NPPF and Local Plan policy. The need to support the economy is part of the Strategic Environmental Assessment for the Local Plan, as is an assessment of climate impacts.

The NPPF aims for the need for housing to be met, and Policy S2 of the Local Plan sets a target for 14,580 dwellings to be provided by 2036. The NPPF and Policies, S1, DM2, and DM3 of the Local Plan and energy and water elements of the adopted Environmentally Sustainable Development SPD require development to be sustainable in terms of resource use, climate change and energy use. When considering the impact of climate change, the proposed development is expected to be resilient to the potential effects of climate change and is expected to limit impacts on climate emissions as a result of the development or its use.

Conclusion:

Reason for Refusal:

The proposals, by reason of their siting and appearance are considered to be visually dominant and intrusive, harmful to visual amenity and detrimental to the character and appearance of the area, contrary to Policies S4 (3e), DM1 and DM9 of the Eastleigh Borough Local Plan 2016-2036 and the contents of the National Planning Policy Framework (NPPF) (2021).

Recommendation:

**PRIOR APPROVAL REQUIRED
& GRANTED** ☐

REFUSE ☒