

Recommendation Report for

**REF NO:** FP/114/22/TEL

**LOCATION:** Verge at junction of Middleton Road and Park Drive  
Felpham  
PO22 6RJ

**PROPOSAL:** Prior Notification under Schedule 2 Part 16 Class A for proposed 5G telecoms installation, H3G street pole and additional equipment cabinets.

**IMPORTANT**

Reason for urgency: The Chairman has requested for this application to be referred to the Planning Committee for decision in view of the large number of objections received and the matters raised. A decision on the application is required urgently to comply with the time limits imposed by Part 16 Class A of the General Permitted Development Order as discussed in the report.

**SITE AND SURROUNDINGS**

**DESCRIPTION OF APPLICATION** The proposal relates to the erection of a 15m high mast and ancillary development.

The ancillary cabinet would be green in colour and comprise :

- 1 No. AC transmission cabinet.
- 1 No. Ericsson 6130 cabinet.
- 1 No. Commscope bowler cabinet.

The application falls to be determined under Part 16 of the General Permitted Development Order 2015. The principle of the development is not in dispute. The consideration of the notification concerns only the siting and appearance of this location. The Local Planning Authority has 56 days to provide its comments to the applicant's agent or it is deemed they have no objection. This period expires on the 28-08-22 .

**SITE CHARACTERISTICS** The site forms a grassed verge on Middleton Road meeting with the junction of Park Drive.

**CHARACTER OF LOCALITY** The area is predominantly residential. Flansham Health Centre and a pumping station is located opposite to the north.

An application for telecommunications equipment opposite to the site was refused and dismissed on appeal in 2005.

The Inspector considered that views of the equipment were not satisfactorily screened and would be intrusive in its setting. It would also be visible from secluded residential gardens.

**REPRESENTATIONS**

Felpham Parish Council provided no objection.

63 objections received from nearby occupiers.

- Object to the location of the mast.
- The mast is on the border between Felpham and Middleton on sea which is an area of special interest.
- The mast is tall and will be imposing nature, detrimental to amenity.
- It will have serious aesthetic impact.
- Reduction in property values.
- There is another mast 594m away.
- There is no confirmation that the mast will not provide a detrimental impact to long term health.
- The Council have powers for to remove article 4 rights.
- No consultation has been made.
- The application has already been refused.
- It is not wanted or needed.
- Requires trees to be cut down.
- Out of place for its setting.
- Court cases have proved they are harmful.
- The area is not suited for modern infrastructure.
- Unproven safety risks to the community.
- It will be highly visible.
- Request this is heard at DC Committee.
- They could upgrade existing masts.
- Within close proximity of the school and health centre.
- Potential health dangers.
- Overbearing.
- It is too close to properties.
- It will encourage anti-social behaviour.

1 letter of support

- The area needs better coverage.

#### **COMMENTS ON REPRESENTATIONS RECEIVED:**

Comments noted and addressed in the conclusion.

The application was advertised via yellow site notices.

The application has not previously been submitted although a similar one was refused opposite the site in 2005.

No trees are located near the mast and none will need to be removed.

#### **CONSULTATIONS**

#### **CONSULTATION RESPONSES RECEIVED:**

##### **WSCC HIGHWAYS (LHA)**

The cabinets and pole are in highways land and not anticipated to obstruct visibility for vehicle emerging from Park Drive. The equipment will be located on a grassed area followed by footway. This proposal is not anticipated to result in an obstruction to any pedestrians who may be using or seeking refuge within the existing footway. The statutory undertaker will need to submit the necessary notification to the

Highway Authority independently and any traffic management will need to be agreed with WSCC Highways prior to works taking place.

#### COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

#### POLICY CONTEXT

Built up area boundary

#### DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

TELDM1 TEL DM1 Telecommunications

[Felpham Neighbourhood Plan 2019-31 Policy BT7](#) Communications Infrastructure

#### PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

#### POLICY COMMENTARY

"The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The Felpham Neighbourhood Development Plan (FNDP) was made on 17/03/21 and its policies are referred to in this report.

#### DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

The above policies outline the criteria against which the application will be assessed. The only aspects that can be considered with regard to this prior approval application are the siting and appearance of the development. This application falls to be determined under the requirements of Part 16 of the Town and Country Planning (General Permitted Development) Order 2015, as amended.

#### OTHER MATERIAL CONSIDERATIONS

In all applications, the Council must take into account other material considerations. This includes Government Advice, case law and appeal decisions which have emerged over recent years. By analysis of these considerations, the following are also relevant:

(i) Health concerns are material planning considerations. Whilst Government advice is that a planning system is not the place for determining health safeguards, Court cases and planning appeals show that public responses on the issue must be weighted in assessing the merits of a site by comparison with alternatives. This must apply to Prior Notification applications as well as applications for planning permission.

(ii) The Planning Inspectorate consider zero health risk (or near zero risk) to be an unreasonable

expectation or basis for a decision.

(iii) An ICNIRP Certificate, confirmation compliance with guidelines for the emission of electromagnetic energy, is essential. Sites should be secure by fencing with advisory notes attached.

(iv) Applications must include a thorough examination of alternative sites; this information must be included in the submitted information for public consultation.

(v) Government best practice advice to applicants expects pre-application consultation with organisations such as schools.

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

### CONSIDERATION OF ALTERNATIVE SITES

The details provided do not include specific alternative sites although does states 'In this location, existing mast sites are not capable of supporting additional equipment compliment to extend coverage reach across the target area and prospective 'in-fill' mast sites are extremely limited'.

### CONCLUSIONS

The proposal falls to be determined under Part 16 of the General Permitted Development Order 2015. The principle of the development is not in dispute. The consideration of the notification concerns only the siting and appearance of the proposed equipment in this location.

The main policy considerations in respect of this proposal are Policy TEL DM1 of Arun Local Plan, BT7 of the FNDP and the NPPF.

The relevant parts of Policy TEL DM1 to be considered in relation to this application are:

- a) There are no satisfactory alternative sites for telecommunications available;
- b) Alternatives have been investigated, including the possibility of mast sharing and mounting the antennae required on existing buildings or other structures,
- (c) Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate;
- d) The proposal will not have an unacceptable impact upon the landscape,
- e) The proposal will not have an adverse effect on the amenity of local residents;
- f) Proposals include full details of all new landscaping, screening and of any trees or vegetation to be retained on the site. In addition, details of a satisfactory scheme to return the site to its former or improved condition once operations have ceased are also required;
- g) Proposals include full details of the design and external appearance of the development including siting, colour and materials;

BT7 of the FNDP states 'All new residential, employment and commercial development which provides new buildings/dwellings must be designed to connect to high quality communications infrastructure including gigabit-capable full fibre infrastructure. Support will be given for proposals that help to provide improved/additional connectivity for the Parish as a whole especially improved mobile phone connectivity including the roll out of 5G subject to the siting, design and impact on adjoining premises.'

No specific alternatives sites have been included however details are included with regards to mast sharing which states 'In compliance with its licence and the sequential approach outlined in the NPPF, all attempts to utilise any existing telecommunication structures where they represent the optimum environmental solution have been employed'. 'In this location, existing mast sites are not capable of

supporting additional equipment compliment to extend coverage reach across the target area and prospective 'in-fill' mast sites are extremely limited'. This complies with (a) and (b). The remainder criteria are discussed below.

The proposal seeks to install a new 15m high mast on a grassed area with supporting ancillary cabinets. These ancillary cabinets fall within permitted development and would be acceptable in size and location without the submission of an application.

The mast will be highly visible due to its siting at a corner of the junction. There are no existing telecommunications features on site, there is however a variety of street furniture in the immediate vicinity, including trees, streetlamps and road signs. Whilst the mast is taller than surrounding structures, this in itself is not a valid reason to conclude that it is not appropriate at a specific location. Inspectors at appeal have noted that by their very nature to be effective masts are required to be taller than surrounding structures. If the column were to be any lower, the antennas would not be able to provide the necessary 5G coverage to the target coverage area and would not be able to clear the urban clutter/tree canopy. As a result, the antenna signal would not be able to operate effectively. A lower height would lead to a poor user experience for a large part of the target coverage area and would require an additional installation contrary to national planning guidance contained in the NPPF. The mast and associated equipment will be green in colour and will help it blend in with the surrounding environment in compliance with TEL DM1 (c).

There are two other masts around 600m to the west. The mast is designed to be as similar as possible to the other linear structures found in the immediate area and will be no more at odds in the street scene and character of the area than the other vertical structures within the immediate locality. Whilst there are other masts, these are not visible from the site's location and do not appear as an excessive number of masts within the locality in compliance with (d).

The mast is positioned in close proximity to dwellings, located around 2.2m north of the boundary fence of No.2 Park Drive, although is unlikely to be visible from the rear facing windows when looking at a 45-degree angle. The mast would be set away from the residential properties as far as is practical whilst ensuring that network coverage is maintained. The proposals would be acceptable in terms of amenity in accordance with (e).

Objections have raised the potential impact of 5G equipment on the health and wellbeing of local community. The Government has through the revised NPPF (2021) established a clear expectation that planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). As such, Local Planning Authorities should not impose a ban on new equipment nor should they seek to prevent competition between different operators, question the need for an electronic communication system.

A declaration that the proposal would be compliant with International Commission on Non-Ionising Radiation (ICNIRP) Public Exposure Guidelines has been submitted to support the application would be in full compliance with the requirements of the radio frequency (RF) public exposure guidelines.

Paragraph 114 of the NPPF encourages the provision of 5G infrastructure in order to support economic growth and social well-being through the increased connectivity that 5G will provide. Central Government is supportive of the provision of 5G network infrastructure. Whilst the mast and cabinets would be a prominent feature in the street scene, the resultant negative impact on the appearance of the area is considered not to be so significant as to warrant the refusal of the application, given the public benefit arising from the provision of 5G services.

The main issues arising from this prior approval notification are whether the mast and cabinets due to

their scale and siting would be a visually obtrusive feature which would be so detrimental to the character and appearance of the area and whether any perceived harm would outweigh the significant social and economic benefits associated with the increased service provision attributed to the proposal and other valid material considerations as outlined in the development plan and NPPF.

The social and economic benefits of providing reliable and high quality mobile broadband connections including 5G support growth in productivity, efficiency and labour force participation across the whole economy is fully supported by the NPPF and the aims and objectives of the Local Plan and neighbourhood plan. These benefits are strong material considerations which outweigh any perceived loss of visual amenity to the surrounding area.

#### Health & Safety

Radiation safety issues and any relevant standards for exposure are a matter for the Health and Safety Executive advised by the National Radiological Protection Board (NRPB). Code system operators must comply with standards for radiation safety under the Health and Safety at Work Act 1974 and associated regulations; and they must demonstrate that exposure of employees and the public comply with NRPB exposure guidelines.

Notwithstanding the above, the scientific evidence of possible adverse health effects from electromagnetic fields has been reviewed by an Independent Expert Group on Mobile Phones (IEGMP) which reported in 2000 (the Stewart Report). The report concluded that the balance of evidence indicated that there was no general risk to the health of people living or being near telecommunications installations on the basis that exposures are expected to be small fractions of the guidelines. The relevant guidelines are set by the International Commission on Non-Ionising Radiation Protection (ICNIRP) for public exposure.

Current planning guidance at para.118 of the NPPF explains that local planning authorities must determine applications on planning grounds only. They should not, among other things, determine health safeguards if the proposal meets ICNIRP guidelines for public exposure. NPPF para.117 requires proposals to be supported by evidence in the form of a self-certified statement that, when operational, the communications development will meet the guidelines. The applicants have complied with this requirement so there is no basis for the matter to be considered further for the purposes of this application

On balance, the proposal would be acceptable in terms of visual amenity, and it is recommended that no objections are raised to the siting and design of the equipment.

<b>HUMAN RIGHTS ACT</b>
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The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

**DUTY UNDER THE EQUALITIES ACT 2010**

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

**RECOMMENDATION**

- 1 For the avoidance of doubt, the mast and ancillary cabinets shall be in the colour RAL6009 Fir Green.

Reasons: To ensure the development is visually integrated with its environment in accordance with TEL DM1 of the Arun Local Plan.

- 2 **INFORMATIVE**  
For the avoidance of doubt the approved details are the 'Site Location Plan - PO0926 A , Proposed Site Plan - PO0926 A' , Proposed Site Elevation - PO0926 A , submitted on 4th July 2022.

- 3 **INFORMATIVE**  
The Local Highways Authority (LHA) advises the applicant that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the proposed works on the highway, please call 01243 642105.