

COMMITTEE REPORT

Date: 12 March 2020 **Ward:** Fulford And Heslington

Team: East Area **Parish:** Fulford Parish Council

Reference: 19/02766/FUL

Application at: Telecommunications Mast MBNL Naburn Lane Naburn York

For: Installation of telecoms cabinets and replacement mast

By: MBNL (EE Ltd And Hutchinson 3G UK Ltd)

Application Type: Full Application

Target Date: 16 March 2020

Recommendation: Approve

1.0 PROPOSAL

1.1 The application seeks permission for the replacement of an existing 11.7m high monopole telecommunications mast with a 20m high tower and associated cabinets. The tower is proposed to support equipment to facilitate the roll out of 5G coverage.

2.0 POLICY CONTEXT

NPPF

City of York Local Plan – Publication Draft February 2018

C1 Communications Infrastructure

GP1 Development in the Green Belt

City of York Draft Local Plan Incorporating the 4th set of changes – Development Control Local Plan. Approved April 2005

GP20 Telecommunications Development

GB1 Development within the Green Belt

3.0 CONSULTATIONS

3.1 Fulford Parish Council – Object to the height of the mast which will be highly visible in the landscape, especially since it is located on a bridge

3.2 Highway Network Management - No objections to the application however there will be implications on the highway in relation to construction. Informatives recommended

4.0 REPRESENTATIONS

No responses received

5.0 APPRAISAL

KEY ISSUES:-

Green Belt

Visual Impact

Very Special Circumstances

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

5.2 The revised National Planning Policy Framework (NPPF) was published in February 2019. It sets out the government's planning policies and is material to the determination of planning applications. The NPPF is a material consideration in the determination of planning applications.

5.3 Paragraph 38 advises that local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

5.4 Paragraph 127 states that planning policies and decisions should ensure that developments will achieve a number of aims including:

- function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development
- be visually attractive as a result of good architecture, layout and appropriate and effective landscaping
- are sympathetic to local character and history, including the surrounding built environment and landscape setting
- create places that are safe, inclusive and accessible and promote health and well-being with a high standard of amenity for existing and future users

5.5 Paragraph 112 states that decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). Paragraph 113 states that where new sites are required (such as for new 5G networks) equipment should be sympathetically designed and camouflaged where appropriate. Paragraph 115 states that 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.

5.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the Local Plan took place in December 2019. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

5.7 The relevant policies of the 2018 Draft Plan are C1 'communications Infrastructure' and GB1 'Green Belt'. This states that proposals for high quality communications infrastructure that supports the development of York's world-class ultrafast connectivity - both fixed and wireless, and high speed connectivity for the City's transport network will be approved wherever possible, unless adverse impacts on the special character of York significantly outweigh the benefits. Policy GB1 of the 2018 Draft Plan states that permission will only be granted for development in the Green Belt where: i. the scale, location and design of development would not detract from the openness of the Green Belt; ii. it would not conflict with the purposes of including land within the Green Belt; and iii. it would not prejudice or harm those elements which contribute to the special character and setting of York.

5.8 There are unresolved objections to Policy GB1 and C1 that will be considered through the examination in public of the Local Plan and therefore these policies should only be afforded limited weight in the decision making process for the purposes of this application.

5.9 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF as revised in July 2018, although the weight that can be afforded to them is very limited.

5.10 The relevant Policy is GP20 'Telecommunications Development' which states that Planning permission will be granted for telecommunications developments, including tall masts, provided:

- a) it can be demonstrated that all efforts have been made to explore the possibilities of erecting the equipment on existing buildings or masts; and

- b) the visual intrusion and proliferation of such equipment has been minimized and the proposal does not result in a significantly adverse effect on the character of the area; and
- c) there would be no adverse effect on the historic character of the City or its skyline; and
- d) that applicants have provided sufficient evidence that the proposed apparatus will meet the latest Government approved guidelines for public telecommunications equipment.

GREEN BELT

5.11 The application site is located within the general extent of the York green belt. Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances. Paragraph 144 goes on to state that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.12 Paragraph 145 states that the construction of new buildings in the green belt is inappropriate save for certain specified exceptions. Paragraph 146 goes on to state that certain other forms of development are not inappropriate in the green belt provided they preserve its openness and do not conflict with the purpose of including land within it. These include engineering operations.

5.13 Policy GB1 'Development in the Green Belt' is relevant from both the 2018 Draft 2018 and the Draft Plan 2005, although limited weight can be attached to the 2018 policy and very limited weight can be attached to the 2005 policy. These state that within the Green Belt, planning permission for development will only be granted where:

- i. the scale, location and design of development would not detract from the openness of the Green Belt;
- ii. it would not conflict with the purposes of including land within the Green Belt; and
- iii. it would not prejudice or harm those elements which contribute to the special character and setting of York

AND it is for one of the acceptable purposes. It also states that all other forms of development within the Green Belt are considered inappropriate. Very special

circumstances will be required to justify instances where this presumption against development should not apply.

5.14 The erection of telecommunication equipment is not one of the acceptable forms of development listed in paragraph 145 of the NPPF, but this paragraph refers to new buildings and this is not a building. It would be classed as an engineering operation under paragraph 146. However, the NPPF is clear that engineering operations which do not preserve the openness of the green belt and conflict with the purpose of including land within it are considered to be inappropriate.

5.15 The erection of the mast and supporting cabinets would not preserve the openness of the green belt due to the resulting height of the mast and the combined size of the proposed cabinets. As such the proposed development would be inappropriate development within the green belt. However, the lower section of the mast and the cabinets would be located within the existing tree belt, which sides onto Naburn Lane. The mast has been designed with a narrow upper section and does not result in a large metal head frame being proposed, in order to reduce its prominence. The cabinets are clustered around the base of the mast and have been kept to the minimum possible. Due to this the harm to openness would be limited.

5.16 Paragraph 134 of the NPPF goes onto state that the Green Belt serves five purposes. These are:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.17 The primary purpose of the York Green Belt is to safeguard the special character and setting of the historic city as referred to in Policy YH9C of the RSS and Policy SS2 of the 2018 Draft Plan, although only limited weight can be attached to the latter. It is considered that the proposal would constitute a form of encroachment into the open countryside and thus would conflict with one of the purposes of the Green Belt as set out in the NPPF. As such, the proposal would constitute inappropriate development in Green Belt. It is necessary, therefore, to consider whether there are any very special circumstances that would outweigh the harm to the Green Belt.

VISUAL IMPACT

5.18 The application site currently houses an 11.7m monopole and base stations with a narrow headframe housing three antenna. The mast is located within an existing tree belt, to the rear of the footpath, along a section of Naburn Lane where it passes over the A64 and as such is in a slightly elevated position. The existing mast is hidden from view by existing mature trees and landscaping.

5.19 The proposal seeks permission to increase the height of the mast to 20m. Twelve antennas in total would be attached to the mast comprising of the following:

- 3No. AAU (5G Antenna) at 19.60m
- 3No. AAU (5G Antenna) at 18.30m
- 3No. Apertures (2G, 3G & 4G Antennas) at 16.60m
- 3No. Apertures (2G, 3G & 4G Antennas) at 14.70m
- 1No. 600mm diameter dish at 12.86m

5.20 The increase in height is significant. However, the scheme retains the narrow linear form of development and does not propose a wide metal headframe in order to support the additional equipment. Whilst the mast is wider than the existing structure it is considered that it would not draw undue attention because of the increased width. Furthermore, the lower section of the mast would be located within an existing tree belt and as such would be hidden from views from the A64.

5.21 The upper section of the mast would be clearly visible above the tree belt and due to its elevated position along the bridge would increase its height above ground level further. The applicant has stated that the increased height is required in order for the 5G antennae to pass the ICNIRP regulations and as such cannot be reduced. Whilst the mast is elevated it is considered that it would not be overly intrusive. The mast would only be visible to traffic on the A64 travelling west and as the mast is approximately 100m from the underpass it would not be in direct line of sight.

5.22 The scheme also proposes the removal of three existing cabinets and the erection of three new cabinets, in addition to the cabinet to the base of the proposed mast. These vary in height from approximately 1.1m to 1.6m and of a standard design. The cabinets would be seen against the back drop of existing dense landscaping and would be set back from the highway. As such the equipment would not be overly prominent within the street scene.

5.23 The NPPF is clear that decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G). The application is supported by information detailing why the existing mast cannot be upgraded, only replaced, and stating that the site represents the only feasible option which allows the requirement to be met without the deployment of an additional base station within the locality. The NPPF states that "(local authorities) should aim to keep the numbers of radio and telecommunications masts and the sites for such installations 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". It has been stated at appeal by Inspectors that the public benefit in maintaining and enhancing local telecommunication coverage and capacity could outweigh the limited harm arising to the character and appearance of areas.

5.24 The application is further supported by Policy C1 'Communications Infrastructure' which states that proposals for high quality communications infrastructure that supports the development of York's world-class ultrafast connectivity - both fixed and wireless, and high speed connectivity for the City's transport network will be approved wherever possible, unless adverse impacts on the special character of York significantly outweigh the benefits.

VERY SPECIAL CIRCUMSTANCES

5.25 The applicant has outlined very special circumstances in order to support the location of the proposed mast and cabinets. It is acknowledged that no alternative sites were investigated prior to the submission, however there are no existing buildings or structures within the area of a sufficient height to accommodate the equipment. Were the existing mast not upgraded a new mast would need to be erected within the vicinity. Two existing masts are already present along this short stretch of Naburn Lane and any additional mast would add to the existing clutter. No other alternative sites outside of the green belt are available to provide the level of coverage required. The sharing of masts is a key strategic policy of the NPPF. The upgrade would retain the sharing of the site between EE, H3G and the Emergency Service Network.

HEALTH CONSIDERATIONS

5.26 The applicant has certified that the proposed equipment and installation is designed to be in full compliance with the requirements of the ICNIRP Public Exposure Guidelines on radio frequency. Therefore, in accordance with national planning advice contained within NPPF and in the absence of any special indication otherwise, it is not necessary to consider further the health aspects of the proposed development. No objection can be made on health grounds.

6.0 CONCLUSION

6.1 The proposal would be inappropriate development in the green belt. It is harmful to the openness of the green belt and represents encroachment. Substantial weight must be given to this harm to the green belt in the planning balance. The proposal would also be harmful to the character and appearance of the area.

6.2 In the planning balance it is acknowledged that the scheme proposes an upgrade to help new 5G technology and that using existing sites is preferable to erecting new masts. As such it is considered that the harm caused by the mast and equipment has a relatively low impact on openness of the green belt and encroachment, the local context and the harm to the character and appearance of the area, are clearly outweighed by the cumulative benefits of the scheme identified in paragraph 5.25 above and therefore very special circumstances are considered to exist which clearly outweigh the harm the green belt and any other harms.

The application therefore accords with the NPPF, particularly Chapter 10, Policies GB1 and C1 of the Draft Plan 2018 and Policies GB1 and GP20 of the Deposit Draft Local Plan 2005.

COMMITTEE TO VISIT

7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing numbers 980729_YOR008_YO0194_M004 Issue D dated 04/12/2019

Maximum Configuration Elevation

Application Reference Number: 19/02766/FUL

Item No: 4d

Maximum Configuration Site Plan

Site Location Drawings

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

8.0 INFORMATIVES:

Notes to Applicant

1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority attached appropriate conditions in order to achieve a positive outcome.

2. You are advised that the mast and required foundation should comply with DMRB Volume 2.

Should AIP be required from the Highway Authority, please contact Andrew.Willison@york.gov.uk

3. You are advised to contact our Streetworks team at the earliest opportunity to agree and arrange required permissions. Contact: streetworks@york.gov.uk

Contact details:

Case Officer: Heather Fairy

Tel No: 01904 552217