

Planning Committee Report: 20/0809/TEL

1.0 Application Number: 20/0809/TEL

Applicant name: Hutchison 3G UK Ltd

Proposal: Installation of 18m high 5G telecommunication monopole with cabinet at base and associated ancillary works.

Site address: Land at Sidmouth Road, Exeter, EX2 7HL

Registration Date: 1st July 2020

Link to application, drawings/plans: <http://publicaccess.exeter.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QCSPZHBIDJ00>

Case Officer: Göran Molin

Ward Member(s) Cllr Yolanda Henson, Cllr David Henson and Cllr Peter Holland (St Loyes Ward)

REASON APPLICATION IS GOING TO COMMITTEE – Telecommunication application of public interest with 138 objections.

2.0 Summary of Recommendation:

DELEGATE subject to receipt and consideration of outstanding consultation responses and any representations received, prior approval is required and is granted, subject to the following condition.

1. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement should include details of access arrangements and timings and management of arrivals and departures of vehicles. The approved Statement shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and public amenity

3.0 Reason for the recommendation: as set out in Section 18 at end

- While the health risks raised by opponents of this type of development are noted, they are not grounds for refusal based on national guidance.
- The proposal provides significant public benefit that outweighs any slight visual harm in this location.

4.0 Table of key planning issues

Issue	Conclusion
Principle of development	As this is a prior approval application, the principle of the development is already accepted.
Scale, design, impact on character and appearance	The mast height and design are appropriate in the context of the character of the street and adjacent trees. Whilst the proposal would result in some minor visual harm, this would not amount to a serious adverse impact on the character or appearance of the area.
Impact on amenity	The location is well chosen to minimise any visual impact on the residential area that the development will serve.
Impact on area or site of historic, conservation, archaeological, landscape or biodiversity importance	None
Economic benefits	None
Other benefits	Paragraph 112 of the NPPF encourages the provision of 5G infrastructure in order to support economic growth and social well-being.
Alternative sites and locations	The applicant has submitted a justification for the choice of site and reasons for ruling out other sites.

5.0 Description of Site

The application site is located on the shared cycle and pedestrian path, alongside the vegetation to the east of Sidmouth Road. The proposal's location is close to a bus stop, and near to the Devon Cornwall Police Middlemoor HQ, Exeter Arms Hotel and Toby Carvery. Adjacent to the site is the grounds for the new Exeter Police HQ.

A number of street lights and a group of trees (approximately 10m tall) are in the vicinity, although there are some species that are around 15-20 metres high. The site is approximately 65 metres from the nearest residential dwelling south of the development, and about 200 metres to St Peters Church of England School.

The area has no specific allocation in the Local Plan as it is part of the existing cycle and pedestrian path along Sidmouth Road.

6.0 Description of Development

The application is for prior notification, considering siting and appearance, for the installation of 18m high 5G telecommunication monopole with cabinet at base and associated ancillary works. The application was submitted for the installation of 20m high 5G telecommunication monopole but was negotiated down to 18 metres after the public consultation.

The monopole is proposed to be around 1 metre south-east of the original location. The reason for the revised location is the proximity to gas pipes which was brought up in the consultation reply from Wales and West Utilities. The applicant subsequently carried out a survey regarding the location of these gas pipes and proposed the revised location to avoid interference with them.

7.0 Supporting information provided by applicant

Technical information including safety certification.

Supporting statement outlining the justification of the site and reasons for ruling out other sites which contains the following information in summary:

The proposal is required due to acute capacity issues and will facilitate significantly improved 5G in areas that have started to gain this service and newly introduce it to the areas that have not gained this level of connectivity yet.

As with all 5G cells this is an extremely constrained cell search area, with a typical cell radius of approximately 250m, meaning that it would not be feasible to site the column outside of this locale. Options are extremely limited and the only viable solution that minimises amenity issues has been put forward.

Discounted locations include:

- By the headquarters of Devon and Cornwall Constabulary, which was discounted as it is located on private land.
- Opt. 2 and Opt. 3 located north of the site adjacent to the round-about was discounted as the location is exposed and the proposed option benefits from significantly superior shielding.
- Locations to the south of the proposed location towards Bathern Road were discounted due to the dense residential nature of the area. The area north of Opt. 3 was also discounted under the same rationale.

8.0 Relevant Planning History

No recent planning history for the site.

9.0 List of Constraints

Aerodrome Safeguarding Area

10.0 Consultations

All consultee responses can be viewed in full on the Council's website.

Exeter International Airport has no safeguarding objections to this development provided there are no changes made to current application.

Network Rail has no objection in principle to the proposal. Although due the development being next to Network Rail land and their infrastructure they want to ensure that no part of the development adversely impact the safety, operation and integrity of the operational railway they have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

The applicant must follow NR standard NR/L2/TEL/30066 for 3rd party transmitters to confirm no interference with signalling and telecoms infrastructure, the applicant is to liaise with named engineer to provide evidence in the matter.

Devon & Cornwall Police raise concerns given the risk posed to 5G masts, their security and reducing the risk of such crimes needs to be considered and incorporated into the its design. After confirmation from the applicant regarding the design with regard to the security of the mast Devon & Cornwall Police are satisfied that appropriate measures have been taken and considered in order to reduce the likelihood of crime.

West and Wales Utilities has no objection in principle, however their apparatus may be at risk during construction works. They have enclosed with their comment records of the area covered by the proposal together with a list of General Conditions for guidance for work in proximity of their gas pipes. Their submitted plan only show the approximate location of pipes own by Wales & West Utilities in its role as Licensed Gas Transporter (GT). Gas pipes owned by other GT's and also privately owned pipes may be present in the area.

Wales & West Utilities require to be contacted should the application be approved by the promoter of the proposed works.

The Highway Development Management Officer (Exeter) at Devon County Council, has no objections to the development. The officer is satisfied that after development the adjacent shared use path is still 3.5m wide at the pinch point.

11.0 Representations

Total 142 representations.

138 objections received, with 69 being received from Exeter residents raising the following concerns:-

- Health and Safety, including the proximity of housing and a school
- Siting and Appearance
- Impact on Biodiversity and Wildlife
- Impact on the adjacent Pedestrian and Cycle Route

12.0 Relevant Policies

NPPF Paragraph 112 supports 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 also supportive of the provision of 5G network infrastructure.

NPPF Paragraph 113 - Where new sites are required (such as for new 5G networks), equipment should be sympathetically designed and camouflaged where appropriate.

NPPF Paragraph 116 - Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

Development Plan

Core Strategy (adopted 21 February 2012)

CP7 – Design and Local Distinctiveness

Exeter Local Plan First Review 1995-2011 (adopted 31 March 2005)

EN7 – Telecommunications

DG1 – Objectives of urban design

Other material considerations

Exeter City Council Development Delivery DPD 2015

DD6 – Communication Networks

DD25 – Design Principles

13.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

The consideration of the prior approval application in accordance with Council procedures will ensure that views of all those interested are considered. All comments from interested parties have been considered and reported within this report in summary with full text available via the Council's website.

Issues has been raised by the public that goes beyond the remit of the Local Planning Authority in this prior approval application. The only considerations in the determination of this prior approval application relate to the siting and appearance of the proposed development.

Any interference with property rights is in the public interest and in accordance with the Town and Country planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

14.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have "due regard" to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 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.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and person who do not share it involves having due regard in particular to the need to:

- a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of other persons who do not share it
- c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has had due regard to the matters set out in section 149 of the equality Act 2010.

15.0 Financial Issues

The requirements to set out the financial benefits arising from a planning application is set out in s155 of the Housing and Planning Act 2016. This requires that local planning authorities include financial benefits in each report which is:-

- a) made by an officer or agent of the authority for the purposes of a non-delegated determination of an application for planning permission; and
- b) contains a recommendation as to how the authority should determine the application in accordance with section 70(2) of the Town and Country Planning Act 1990.

The information or financial benefits must include a list of local financial considerations or benefits of a development which officers consider are likely to be obtained by the authority if the development is carried out including their value if known and should include whether the officer considers these to be material or not material.

Material or non material considerations

None

16.0 Planning Assessment

Local Plan Policy EN7 states that development of telecommunications equipment will be permitted, provided that: a) the siting and design of apparatus and antenna will minimise their visual impact and their impact on amenity; and b) there are no practicable alternatives such as re-siting or mast sharing.

DD6 states telecommunications development will be permitted provided that:

- a) the siting and design of the equipment will minimise visual impact and impact on amenity;
- b) the development does not have any unacceptable adverse impact on any area or site of historic, conservation, archaeological, landscape or biodiversity importance; and,
- c) the operator has investigated the availability, benefits and impacts of alternative sites and developments, including mast or site sharing, and has demonstrated that there are no practicable alternatives.

This is not a planning application. The development is permitted by The Town and Country Planning General Permitted Development Order. The only considerations in

the determination of this prior approval application relate to the **siting** and **appearance** of the proposed development.

The decision options are:

- Prior Approval of siting and appearance is not required;
- Prior Approval of siting and appearance is required and is granted;
- Prior Approval of siting and appearance is required and is refused (with clear reasons for refusal relating only to siting and appearance); or,
- Deemed consent if a decision is not made within the time limit of 56 days. This prior approval application will be granted deemed consent if a decision is not made before 8th July 2020.

Legal advice

The introduction of 5G is a controversial topic throughout the country, with many campaigners claiming the technology is unproven and potentially hazardous to health. The government of the United Kingdom and Public Health England have provided reports and guidance to state that 5G is safe and that there are no public health grounds for 5G installation to be refused.

Legislation for the installation of 5G apparatus

The installation of a mobile phone mast would count as development and would normally require a full application for planning permission. However, designated mobile network operators have certain permitted development rights, which means that they can build prescribed infrastructure without having to apply for planning permission from the local planning authority. "Prior approval" from the local planning authority regarding the siting and appearance of the development is required in certain circumstances; for example, all new ground-based masts require prior approval.

Determination of Prior Approval Applications

A mobile network operator may submit an application for prior approval under the General Permitted Development Order (Part 16 of Schedule 2 of the GPDO 2016). The Order grants approval of the principle of the development as permitted development but requires operators to obtain the prior approval from the LPA to the siting and appearance of the items to be installed, in addition to providing the 'necessary evidence' set out in NPPF Chapter 10 Section 115, including a statement that self-certifies that, when operational, International Commission guidelines will be met.

The factors which can be considered in relation to appearance as part of the prior approval process include:

- design, form, shape and dimensions
- colour and materials
- whether there are more suitable sites for the proposed works.

The factors which can be considered concerning siting include:

- height of the site in relation to surrounding ground
- existing topographical features and natural vegetation
- the effect on the skyline or horizon
- the site when observed from any side
- the site in relation to areas designated for scenic value
- the site in relation to existing masts
- the site in relation to residential properties

It is therefore clear that the considerations to be taken into account in the determination of Prior Approval applications are prescribed and are very limited and do not include issues of public health.

Health impacts of 5G

The International Commission on Non-Ionizing Radiation Protection is a charitable body of independent scientific experts established by the International Radiation Protection Association whose principal aim is to disseminate information and advice on the potential health hazard of exposure to non-ionising radiation including electromagnetic fields. This organisation has produced guidelines for emissions from masts that are now used to determine the acceptability of emissions from such equipment.

In addition, the Health and Safety Executive has adopted policies on phone masts in particular, and radio wave safety in general, which are guided by organisations such as the World Health Organisation, the International Commission on Non-Ionizing Radiation Protection and the Health Protection Agency. A great deal of research has been, and continues to be undertaken on the health implications of masts. The weight of international evidence reviewed by these expert organisations indicates that there is no evidence of a direct link of harm or ill health from working or living close to phone masts.

In 2000 the UK Government commissioned the Independent Expert Group on Mobile Phones (IEGMP) chaired by Professor Sir William Stewart, to conduct a review of the possible health effects from the use of mobile phones, base stations and transmitters. It concluded that:

“The balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of international guidelines”.

The rollout of 5G has again raised concerns regarding public health associated with telecommunication equipment and the implementation of electromagnetic fields. These concerns from the public resulted in a Parliament and Government petition calling for an independent inquiry into the health risks of 5G. Public Health England (PHE) updated its advice as a result. This states that international and UK expert

groups have examined the evidence and “it is possible that there may be a small increase in overall exposure to radio waves when 5G is added to an existing network or in a new area. However, the overall exposure is expected to remain low relative to guidelines and, as such, there should be no consequences for public health.” PHE continues its monitoring of health related evidence on radio waves, and will update its advice as required.

The Glastonbury Town Council Report

The 5G Advisory Committee, formed by Glastonbury Town Council (GTC), has concluded a report with supplementary materials, both dated April 2020. Its recommendations refer to: writing to identified MPs (requesting that they establish a Select Committee or Committee Inquiry into the safety or otherwise of 5G technology); writing to Public Health England and the UK Government (requesting inter alia an independent scientific study); and lobbying ICNIRP (to take into account the non-thermal effects of radiofrequency EMFs in their Guidelines on Limiting Exposure to Electromagnetic Fields).

The GTC Report’s recommendations do not include the refusal of applications for planning permission or prior approval based on its findings to date. They are aimed instead at securing further research and consideration with a view to changing government policy. It is important that the significance and limitations of the GTC Report should be understood. It is also important to note that GTC is not a local planning authority.

The Precautionary Principle

The GTC Report makes reference to the Precautionary Principle, which is defined on the European Parliament website and states:

‘The precautionary principle enables decision-makers to adopt precautionary measures when scientific evidence about an environmental or human health hazard is uncertain and the stakes are high’

Whilst the Precautionary Principle is an overarching principle relating to health concerns, it has no place in the consideration of this matter since the issues for determination are clearly set out by the legislative framework and in particular the Order. The health considerations relating to this type of development have been considered by the Government in developing permitted development rights which is reflected in the requirement for a certificate to accompany the application certifying that Radio Frequency public exposure guidelines of the International Commission on Non-Ionising Radiation protection has been met. Such a certificate has been submitted with this application.

Latest Government Advice 22nd July 2020

The government has published the outcome of a consultation exercise last year on proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage. The following paragraphs are relevant to this application.

Concerns raised on grounds relating to potential impacts on public health

The scope of the consultation was on the principle of proposed planning reforms to support the deployment of 5G and extend mobile coverage. However, concerns were raised that did not relate to the specific proposed planning changes that views were sought on. These concerns, expressed by the majority of personal respondents, were in relation to in-principle opposition to the deployment of 5G infrastructure. In particular, on grounds relating to public health concerns, and the effects of electromagnetic fields (EMF) radiation on the environment, including on wildlife populations.

Public Health England's (PHE) Centre for Radiation, Chemical and Environmental Hazards (CRCE) takes the lead on public health matters associated with radiofrequency electromagnetic fields, or radio waves, used in telecommunications.

PHE is familiar with the evidence submitted to the consultation about possible risks to public health and considers that its advice, as set out below, remains unchanged.

PHE updated its guidance, published in October 2019, in respect of 5G in '5G technologies: radio waves and health'. PHE summarised its guidance as:

"It is possible that there may be a small increase in overall exposure to radio waves when 5G is added to an existing network or in a new area. However, the overall exposure is expected to remain low relative to guidelines and, as such, there should be no consequences for public health."

Some 5G technology will use similar frequencies to existing communications systems. Other 5G technology will work at higher frequencies, where the main change would be less penetration of radio waves through materials.

Central to PHE advice is that exposure to radio waves should comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In compliance with PHE advice, mobile network operators have committed to follow the ICNIRP guidelines.

ICNIRP is an independent organisation which is formally recognised by the World Health Organization. It issues guidelines on human exposure to EMF, based upon the consensus view of a large amount of research carried out over many years. This includes the frequencies used by 5G and all other mobile / wireless technologies.

Over the last two decades there have been over 100 expert reports on EMF and health published internationally with well over 3,000 studies informing these reviews and the existing scientific exposure guidelines.

Ofcom will carry out audits of mobile base stations on an ongoing basis to ensure that ICNIRP guidelines are not exceeded and publish the results of these audits on its website. Mobile operators are responsible for ensuring that all sites remain compliant. PHE have also published guidance in respect of 'Mobile phone base stations: radio waves and health'.

Ofcom is also proposing new licence conditions for spectrum licensees using equipment that can transmit at power levels above 10 Watts. Under these proposals licensees would be required to operate within the ICNIRP guidelines as a condition of their Ofcom licence – including keeping data and records of any testing to demonstrate their compliance.

PHE is committed to monitoring the evidence applicable to this and other radio technologies, and to revising its advice, should that be necessary.

Concerns raised on grounds relating to potential impacts on wildlife populations
Respondents also raised concerns about the effects of artificial EMF radiation on the environment, particularly on wildlife populations.

EMF radiation has the potential to impact the movement of insects and some species of animals. However, there is currently no evidence that human-made EMF radiation at realistic field levels has population level impacts on either animals or plants. There is therefore no threat to wildlife occupying trees near to the proposed development.

Design, siting and appearance

The proposed mast was negotiated down to 18 metres after the public consultation. The proposed mast is therefore slightly lower than the standard size for a 5G mast at 20m in height. However the height is still taller than 4G masts, which are typically between 12.5 and 15m throughout the city. A recent change in legislation has increased the height of some masts that do not require consent to 20m, therefore while this is taller than many of those currently in the city, a height of 20m will become more typical. The mast and cabinet would be grey in colour, but other options are available.

The application site is located on the shared cycle and pedestrian path along Sidmouth Road. The proposed site has been selected to minimise the number of residential properties in the direct vicinity, although serving the wider residential area. The residential properties closest to the site do not directly overlook where the Monopole and associated cabinets would stand. The proposal benefits from the

proximity of mature trees on both side of Sidmouth Road whilst existing street furniture (street lights) will help the development blend into the surrounding area.

While there are ample examples of street furniture in the area, including 10m high street lights along Sidmouth Road, the development of an 18m high pole will be clearly visible from along the road. The mast would be a prominent addition to the area that would be visible in both short and longer views. However, the existing trees will help to mitigate the visual impact and lowering the pole to 18 metres increase the mitigating impact from the trees. The immediate area is dominated by busy Sidmouth Road and surrounding trees. The location is well chosen to minimise any visual impact on the residential area that the development will serve, with a distance of around 65 metres between the site and nearest dwelling and around 200 metres to the nearest school.

Highway issues

The Devon County Council as the Local Highway Authority has no objection. The Highway Officer is satisfied with that, after development, the adjacent shared use path is still 3.5m wide at the pinch point. The revised location allows for the same width for the shared path as the originally proposed location.

Benefits

Paragraph 112 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, including home working, connected transport and smart city applications. Central Government is also supportive of the provision of 5G network infrastructure. It is therefore considered that, whilst the proposal would result in some minor visual harm, this would not amount to a serious adverse impact on the character or appearance of the area. On balance, the visual impact is considered to be outweighed by the substantial public benefit arising from the provision of 5G services and therefore does not warrant the refusal of the application.

Health risk/perception of health risk

The health concerns raised by opponents of developments of this type are acknowledged. The applicant has submitted a certificate stating that the proposal will meet the International Commission for Non-Ionising Radiation Protection (ICNIRP) Guidelines as required by legislation. If the local planning authority were to refuse the application on health grounds this would be an impossible position to sustain at appeal.

Some opponents cite perceptions of risk, causing anxiety and stress, and the potential for people to avoid the area. The application has addressed the need for the mast in the area. The supporting information also confirms the mast can only be located in a small area for technical reasons. Moving the mast to another site nearby would not address perceptions of health risk. It is also considered that perception of health risk would not be grounds to refuse a prior approval application which only

considers siting and appearance, and considering NPPF paragraph 116 which states local planning authorities must determine applications on planning grounds only. They should not set health safeguards different from the International Commission guidelines for public exposure.

There may be concerns that the negotiated reduction in height of the proposed mast from 20m to 18m for visual impact reasons will increase risks to human health by bringing radiation emissions closer to ground level. There is no evidence that this is the case; studies have shown that even at 2m distance from the source of the emissions, the levels are substantially below the Government's exposure safety guidelines.

17.0 Conclusion

While the health risks raised by opponents of this type of development are noted, they are not considered grounds for refusal based on national guidance. The proposal provides significant public benefit that outweighs any slight visual harm in this location.

18.0 RECOMMENDATION

Subject to receipt and consideration of outstanding consultation responses and any representations received, prior approval is required and is granted, subject to the following condition.

2. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The statement should include details of access arrangements and timings and management of arrivals and departures of vehicles. The approved Statement shall be adhered to throughout the construction period.

Reason: In the interests of highway safety and public amenity