

**Committee Report**

<b>Application No:</b>	<b>DC/21/00944/TDPA</b>
<b>Case Officer</b>	<b>Rebecca Norman</b>
<b>Date Application Valid</b>	<b>29 July 2021</b>
<b>Applicant</b>	<b>MBNL</b>
<b>Site:</b>	<b>Windy Nook Off Stone Street Gateshead Windy Nook NE10 9RY</b>
<b>Ward:</b>	<b>Windy Nook And Whitehills</b>
<b>Proposal:</b>	<b>DETERMINATION OF PRIOR APPROVAL: Proposed 25m high replica cypress tree telecoms installation and associated works (amended plan 01.09.2021; amended plan and description 28.09.2021 and 26.10.2021)</b>
<b>Recommendation:</b>	<b>PRIOR APPROVAL IS REQUIRED AND APPROVED</b>
<b>Application Type</b>	<b>Telecommunications DPA</b>

**1.0 The Application:****1.1 DESCRIPTION OF SITE**

The application relates to an area of land situated east of Stone Street, Windy Nook.

1.2 The site is situated to the western side of Windy Nook Nature Park and is accessed from Stone Street via a track to the north of Sutherlands Hotel.

1.3 The application site comprises an area of rough grass surrounded by trees and vegetation. Directly to the south of the site is the access track, with two compounds containing metal sheds/a scrap yard to the east and south. Further to the south of the site are residential properties along Sea View, with additional residential properties and Sutherlands Hotel to the south west/west; to the east/north east and north of the site beyond the Nature Park are residential properties on Cheviot View and Albion View respectively.

1.4 The application site is situated within Windy Nook Local Nature Reserve and Windy Nook Local Wildlife Site and forms part of an area of designated open space.

**1.5 DESCRIPTION OF APPLICATION**

The application seeks determination of prior approval for a new telecommunications installation. The installation consists of a 25 metre high replica Cypress tree telecommunications tower and associated ancillary development comprising 7no. equipment cabinets within a 2.4m high fenced compound with hard surfacing that would provide new 5G coverage for both EE, H3G (Three) and ESN (Emergency Services Network).

- 1.6 The application is made pursuant to Part 16 of Schedule 2 of the Town and Country (General Permitted Development) Order 2015 (GPDO) (as amended) and is supported by the following documentation:
- Existing and proposed plans
  - ICNIRP Certificate
  - Supplementary information
  - Developer notice letter and covering letters
- 1.7 The application has been amended during its course to change the design of the tower from a 25m high lattice tower to a replica Cypress tree.
- 1.8 The scheme has also been amended to alter the access route to the application site indicated on the proposed plans, which is proposed to be taken via the existing access track.
- 1.9 **RELEVANT PLANNING HISTORY**  
DC/11/01218/FUL - Siting of a steel container for storage purposes. Temporary permission granted 14.12.2011 for a period of 5 years.

## **2.0 Consultation Responses:**

None undertaken.

## **3.0 Representations:**

- 3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015, including the display of site notices.
- 3.2 A petition of 31no. signatures has been received with an accompanying covering letter which states that *"we wish to strongly object to the above proposed application on the following grounds"*, which are summarised as follows:
- The site area is unsuitable as it is too near a residential care home, residential properties and a Hotel, which are a minimum of 50m away
  - Issues of noise; the tower will have a cooling system with noise levels of 60dB
  - The site has already been cordoned off which is premature and presumptuous and implies that permission has been provisionally granted.
- 3.3 A total of 28no. letters of objection were received (including 2no. letters from 1no. individual) which raise the following matters:
- Out of character with streetscene
  - The development would be an eyesore/obscene
  - Inappropriate scale, siting and nature of development in this location

- Loss of amenity of area
- Impact on skyline
- Overbearing impact
- Negative impacts upon residential amenity
- Loss of light
- Loss of privacy
- Issues of noise and disturbance
- Proximity to residential properties
- Visibility from adjacent residential properties
- Increase in traffic
- Health concerns
- Impact upon Nature Park
- Impact upon wildlife
- Out of character with Conservation Area
- Loss of trees
- The proposed development will attract vandals/anti-social behaviour
- Impact on views
- Devaluation of property
- Lack of/insufficient public consultation
- Inappropriate location for development
- Other locations should be considered including upgrading existing masts
- Where will electricity be supplied from
- Are a water supply and service roads required?
- Residents should be compensated if the application is approved
- Traffic associated with the construction and maintenance of the development may cause an accident
- The Council will not deal with damaged trees because of wildlife but will be removing trees and shrubs for the development
- The development is money orientated
- There are no benefits to the local area
- Nearby housing developments have already impacted the area
- Why have signs at the park entrance been removed?

3.4 A further period of neighbour notification was carried out following receipt of amended plans. A total of 8no. letters of objection were received in response to this re-consultation (including 3no. letters from previous objectors) which raise the following matters in addition to those summarised above:

- Overdevelopment
- Disguising the structure as a tree will not prevent effects on the public and wildlife
- Has a bat survey been undertaken?
- The site may be a possible site for/create a risk of suicide
- The land is protected and not suitable for building on
- Has the Queen Elizabeth Hospital site been considered?

#### **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP24 Design Quality

MSGP37 Biodiversity and Geodiversity

## **5.0 Assessment of the Proposal:**

- 5.1 This application requires the Local Planning Authority (LPA) to determine whether prior approval is required for the siting and appearance of the proposed development under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), as amended by The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2016.
- 5.2 Before the LPA determine whether prior approval is required and assess the proposal in line with paragraph A.3 of Part 16 to determine whether this should be given, it must firstly be determined that the proposal does not exceed the restrictions and limitations of paragraph A.1 and whether it would comply with the conditions of paragraph A.2.
- 5.3 The proposed development has been assessed and Officers consider that this falls within the scope of telecommunications development which is subject to the prior approval process, and that prior approval is required.
- 5.4 Under the prior approval process, the LPA can only consider the matters of the siting and appearance of the proposed development. No other matters can be considered, and the LPA cannot consider the principle of the development.
- 5.5 Certain other forms of minor development (including the installation of equipment cabinets) that meet the criteria defined within the GPDO are classed as permitted development without the requirement for prior approval to be sought from the LPA. The ancillary development shown on the submitted plans meets the relevant criteria and is therefore not subject to consideration as part of this prior approval application as this is permitted development.

5.6 BACKGROUND

The National Planning Policy Framework (NPPF) at Paragraph 114 states that *“advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being”* and that planning decisions *“should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)”*.

5.7 The application identifies that there is a requirement for a new telecommunications mast as a Notice to Quit (NTQ) has been served in relation to an existing telecommunications site at Crow Hall Towers in Felling.

5.8 Given the height of the NTQ site the supporting statement explains that several replacement sites may be required to replicate the coverage that is currently provided. The tower that is the subject of this application is therefore proposed to address this coverage requirement and provide new/replacement 5G coverage and network capacity within the NE10 area of Gateshead which would serve EE, H3G (Three) and ESN (Emergency Services Network).

5.9 The cell search areas for 5G are extremely constrained, with a typical cell radius of approximately 250m, meaning that it would not be feasible to site the proposed tower outside of this location. Further limiting factors are that mobile phone base stations need to be in the areas in which they are required, which is increasingly in, or close to, residential areas, and that the sites must fit in with the existing network to form a patchwork of coverage cells with limited overlapping, to provide continuous network coverage and avoid interference.

5.10 SITING AND APPEARANCE

NPPF Paragraph 115 states that *“the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged”*.

5.11 NPPF Paragraph 117 continues by stating that applications for new telecommunications masts should be supported by evidence that *“the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure”*.

5.12 The applicant has provided details of alternative sites that have been investigated in the relevant search area including mast sharing and existing buildings and the reasons for these having been discounted. Based on the information submitted Council Officers consider that the approach taken by the applicant is reasonable and appropriate and conclude that the proposed site is the most appropriate location for the proposed equipment.

5.13 NPPF Paragraph 115 states that *“where new sites are required (such as for new 5G networks...), equipment should be sympathetically designed and camouflaged where appropriate”*.

- 5.14 The application as amended proposes a 25m high replica Cypress tree mast, the design of which seeks to overcome concerns raised in relation to the original proposals for a 25m high climbable lattice tower.
- 5.15 The proposed mast would be situated to the south east of a group of trees around 15m in height. Officers therefore recognise that the proposed mast would be visible above the trees, from within the Nature Park and adjacent dwellings and to some extent from Stone Street between/above existing buildings. Land levels fall away to the north east of the application site which affords long views in this direction and the proposed mast would therefore also be visible in this context.
- 5.16 Having due regard to the above, Officers consider that, whilst visible at both long and short range, the visual impact and prominence of the proposed mast would be significantly reduced through the proposed replica Cypress tree design and its position adjacent to existing trees which would provide both screening to the lower portion of the mast and a backdrop for this, helping to blend the artificial tree to its surroundings. Whilst the top of the mast would be visible above the existing tree line Officers consider that this would not appear as a harmfully incongruous or dominant feature as a result of the proposed replica tree design. It is further considered that the proposed mast would also not appear as unduly prominent within the context of the topography of the area and long views of the north east, given the direction of falling land levels and its location adjacent to the tree group.
- 5.17 As such, whilst acknowledging that the proposed development would be visible and may amount to some level of visual harm Officers consider that it would not amount to a significant or unacceptable impact to the visual amenity of the surrounding area or the amenity value of the Nature Park, having regard for its designation as a Local Nature Reserve and Local Wildlife Site.
- 5.18 The application proposes that the tree mast and equipment cabinets would be dark green in colour (RAL6009); this is considered to be appropriate in the interests of visual amenity and would therefore be secured by condition (CONDITION 1). In order to ensure that the equipment as a whole would blend in with its surroundings it is recommended that a further condition be attached requiring that the palisade fencing and gates proposed to surround the compound area and antenna and dishes proposed to be mounted onto the mast would all be dark green (CONDITION 2).
- 5.19 In addition to the above, Officers have further assessed the application in relation to the impact of the siting and appearance upon the designated areas, in this case, the Local Nature Reserve and Local Wildlife Site. Whilst noting the designations affecting the site Council Officers consider the footprint of the proposed development to be of low ecological value and therefore consider that the scheme is unlikely to result in significant harm to the ecological value and function of the Local Nature Reserve and Local Wildlife Site and is therefore acceptable in this respect.

- 5.20 In terms of residential amenity, the closest residential properties to the application site are those on Sea View, to the south/south west, of which the rear elevation of the closest properties (1 and 2 Sea View) are approximately 55m south of the proposed development. The rear elevations of properties along this part of Sea View are orientated to face north east, and Officers therefore acknowledge that occupants would be afforded a view of the proposed development from their rear windows and gardens, although the view from the properties at the southern end of the street would be more oblique, given their orientation.
- 5.21 There are also further residential properties to the north eastern side of Stone Street alongside Sutherlands Hotel, north of Sea View, which are situated some 60m south west of the application site although are screened from the site to some degree by existing trees. In addition, there are residential properties on Albion View/Blenheim Court in excess of around 90m to the north of the site and those to the north east on Cheviot View in excess of around 180m from the application site, although these are also screened by existing trees.
- 5.22 Officers have considered the application and accept that the proposed development would be both visible from, and within the context of, residential properties along Sea View, and is likely as a result of its height be visible to some extent from other properties within the surrounding area; the fact that the proposed development would be visible and is within a residential area are not however reasons in themselves to refuse prior approval.
- 5.23 Whilst noting the above, having regard to the proposed tree design and the distances involved between the proposed tower and nearby properties, Officers consider that the siting and appearance of the proposed development would not give rise to such detrimental impacts upon residential amenity including in terms of any overbearing impact or loss of light so as to warrant the refusal of the application on these grounds. Officers further consider that the proposed development as detailed in the submitted plans would not give rise to unacceptable noise and disturbance to nearby residential uses.
- 5.24 Further to the above Officers consider that the proposed development would not detrimentally impact upon highway safety.
- 5.25 HEALTH AND SAFETY ISSUES  
NPPF Paragraph 117 offers guidance on health and safety considerations in relation to mobile phone masts.
- 5.26 In accordance with the NPPF, applications for a new mast should be submitted with *"a statement that self-certifies that, when operational, International Commission guidelines will be met"*. Any submission should therefore address this by including supporting evidence that the installation would meet these guidelines and that no demonstrable harm would arise from the proposal.
- 5.27 NPPF Paragraph 118 further states that *"Local Planning Authorities must determine applications on planning grounds only"* and should not *"set health*

*safeguards different from the International Commission guidelines for public exposure".*

- 5.28 The applicant has submitted an ICNIRP certificate, certifying that when operational International Commission guidelines would be met. Whilst noting the representations received in respect of health impacts no further assessment of the health impacts of the development can therefore be undertaken by the LPA.
- 5.29 OTHER MATTERS  
In reviewing the application Highways Officers have raised no objection however have advised that the applicant must ensure that they have a right of access to the track that serves the application site. This matter falls outside of the scope of the application however an informative would be attached to this effect.
- 5.30 A number of representations have objected to the principle of the development in this location, notably as the site is designated as a Local Nature Reserve and Local Wildlife Site. In determining this application the LPA is limited to a consideration of the matters of siting and appearance only and cannot consider the principle of the development. As such, the LPA cannot refuse prior approval on the basis that the development is considered unacceptable in principle by virtue of being situated within an area allocated for a specific purpose within the Council's Local Plan.
- 5.31 A number of representations have raised concerns about the impact of the proposed development upon wildlife, with one letter querying whether a bat survey has been undertaken. As above, these matters fall outside the scope of this prior approval application as identified within legislation; furthermore whilst a bat survey has not been submitted there is no provision in legislation to require the submission of this to accompany this type of application. Notwithstanding this, in any event the application does not propose any removal of trees or features which are considered to afford bat roost potential or the installation of any artificial lighting and therefore poses a negligible risk to roosting, commuting and/or foraging bats.
- 5.32 A number of matters have been raised within letters of representation including the potential for the development to attract vandalism and antisocial behaviour and become a possible site for/create a risk of suicide, impacts upon views, a request for compensation for nearby residents, suggested financial motivations of the development and the devaluation of property however these are not material planning matters and therefore cannot be afforded weight in the assessment of this application.
- 5.33 Representations have been received which raise concerns about a loss of trees and impacts upon the Conservation Area. The application is not however within a Conservation Area and would not result in any loss of trees.
- 5.34 Letters of representation have stated that the Council will not remove damaged trees elsewhere in the park due to the wildlife however that trees and shrubs will

be removed for the proposed development; the application would not however result in any loss of vegetation and Officers consider that it would not be reasonable to refuse prior approval on the basis of issues with trees elsewhere within the Park.

- 5.35 Representations have been received in respect of the scope of publicity undertaken for the application. The Council has however advertised the application in accordance with relevant legislative requirements and it is considered that the level of publicity undertaken was sufficient.
- 5.36 A number of representations state that alternative sites should be considered. The matter to be considered by this application is whether the prior approval of the LPA is required and should be granted for the siting and appearance of the development proposed in this location, rather than suggesting alternative sites. The LPA consider that the applicant has reasonably explored other options for the location of the development and it is not for the LPA to suggest and determine the acceptability of the proposed development in alternative locations. Confirmation has also been requested from the applicant as to whether consideration was given to the siting of the proposed equipment at the Queen Elizabeth Hospital site or blocks of flats at Beacon Lough which are specifically mentioned in letters of objection; it is however understood that there is existing equipment installed at or close to these sites and therefore these sites would not provide the necessary coverage.
- 5.37 Queries have been raised within one letter of representation as to where electricity will be supplied from and whether a water supply and service roads are required. The proposed plans indicate the vehicular access route to the site that would utilise an existing track; matters relating to the requirement for and nature of utilities to serve the development fall outside the scope of this application.
- 5.38 Representations state that the development would result in an increase in traffic and that traffic associated with the construction and maintenance of the development may cause an accident; Officers however consider that there is no evidence that an increase in traffic or traffic accidents would occur, and it would therefore be unreasonable to refuse prior approval on this basis.
- 5.39 Representations received that that nearby housing developments have already impacted on the area and therefore the proposed development should not be permitted. Each application must however be considered on the basis of its own merits and Officers consider that the proposed scheme is acceptable in terms of siting and appearance.
- 5.40 One letter of representation has queried why entrance signs at the Park have been removed. It is understood that these were removed in early 2020 following the dissolution of the Friends of the Park group, in addition to which the signs were reportedly in poor condition and contained contact information for the Friends group. This matter is however separate from this application and therefore has no bearing upon its determination.

- 5.41 One letter of representation has also stated that there would be no benefits to the local area resulting from the proposed development; the mast would however provide new/replacement 5G coverage to this area, which the LPA consider to be of public benefit.
- 5.42 Objections have been received on the basis that the application site has been cordoned off, which implies that permission has been provisionally granted; the prior approval of the LPA has however not been given and this matter is subject to consideration as part of this application.

## **6.0 CONCLUSION**

- 6.1 The proposal does not exceed the limitations of Part 16, Class A of the GPDO and the application complies with the relevant conditions of that Class.
- 6.2 The proposed scheme has been assessed and having regard for the representations received is considered to be acceptable on balance in relation to the siting and appearance of the apparatus, in accordance with the NPPF and policies CS13, CS14, CS15, CS18, MSGP15, MSGP17, MSGP24 and MSGP37 of the Local Plan for Gateshead. It is therefore recommended that prior approval is required and approved, subject to the conditions set out below.

## **7.0 Recommendation:**

That Prior Approval is Required and APPROVED subject to the following condition(s) and that the Strategic Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the planning conditions as necessary:

1

The mast and equipment cabinets hereby approved shall be dark green in colour (RAL 6009) in accordance with 'Plans ref 1575377\_GTH106\_NE0066\_M002 Issue B' (received 26.10.2021) and shall be retained as such in perpetuity.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the surrounding area in accordance with the NPPF and Policies CS15 and MSGP24 of the Local Plan for Gateshead.

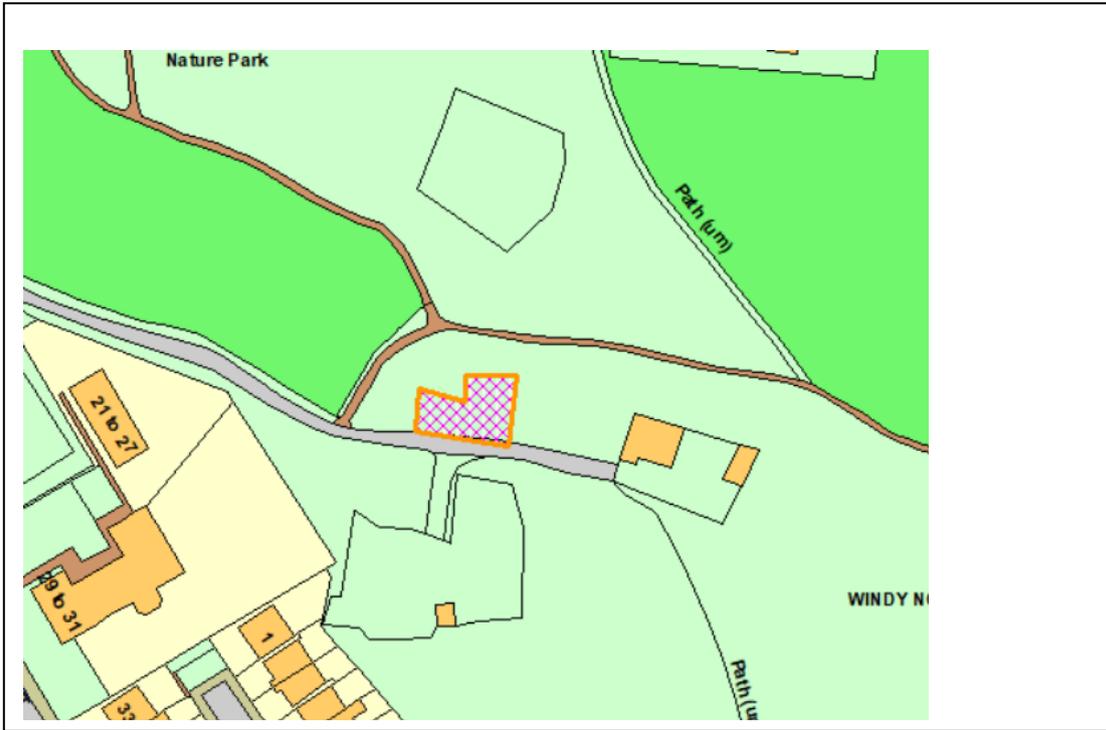
2

Notwithstanding the details shown on 'Plans ref 1575377\_GTH106\_NE0066\_M002 Issue B' (received 26.10.2021) the palisade fence and gates and 6no. antennas and 2no. dishes hereby approved shall be painted or powder coated dark green in colour and shall be retained as such in perpetuity.

Reason

To safeguard the visual amenities of the area and to ensure that the proposed development does not have an adverse effect upon the appearance of the

surrounding area in accordance with the NPPF and Policies CS15 and MSGP24 of the Local Plan for Gateshead.



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