

ITEM 1

PROPOSED REPLACEMENT 20M STREET POLE AND ASSOCIATED WORKS - TELEFONICA (47650) TELECOMMUNICATIONS MAST, CANAL WHARF, CHESTERFIELD, S41 7NA for CORNERSTONE

Local Plan: Adjacent to a site allocated for Economic Growth (CLP6)

Ward: St Helens

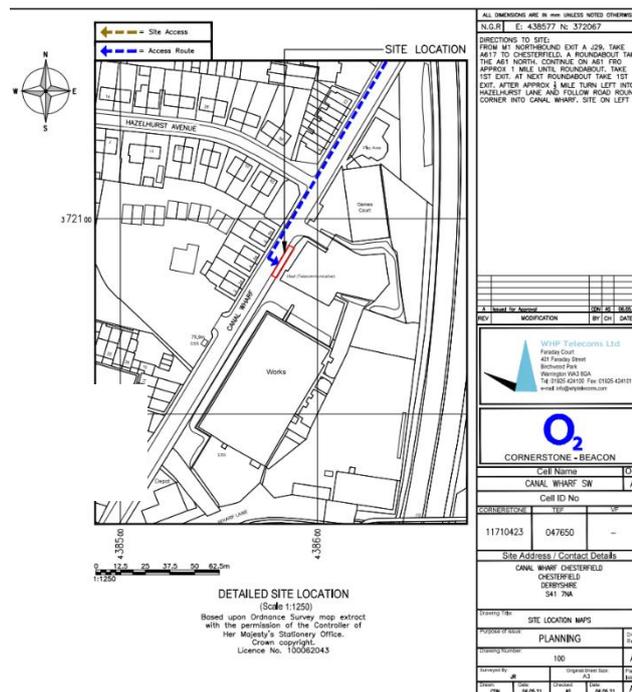
1.0 CONSULTATIONS

Local Highways Authority	Requested revised plans demonstrating the protection/preservation of minimum visibility sightlines from the vehicular access for the adjacent commercial premises and for new cabinets/apparatus to be located at the rear of the footway to allow for pedestrian access on the pavement/footway.
Ward Members	No comments received
Environmental Health	No adverse comments to make
Design Services Drainage	Providing there is no increase in impermeable area to this site, we have no comments to make regarding this application.
Yorkshire Water	No comments received
Representations	1representation received

2.0 THE SITE

- 2.1 The site subject of this application is situated on the south side of Canal Wharf in close proximity to the vehicular access to 'Eriks' car park, a commercial premises immediately to the south of the application site.
- 2.2 To the north of the site on the opposite side of Canal Wharf public highway there is a residential development on the site of the former Chamber of Commerce centre (see site history). Thornfield House is

situated within the new residential development and is locally listed (included on the adopted list of Local List of Heritage Assets).



Extract of submitted location plan ©



Aerial photograph of site taken from Google © noted that the aerial image does not show the new residential development at the former Commerce Centre (see current site photographs)

2.3

The site has an existing 15m high telecoms mast and associated cabinets and there has been a mast on this site since around 2011/2012 and there have been subsequent applications to upgrade the equipment (see site history)



Slim line 14.8m high slim line monopole – image taken from Google streetview © in May 2012



Slim line 15m high column – image taken from Google streetview © in June 2015



Current arrangement – image taken from Google streetview © in April 2019

3.0 RELEVANT SITE HISTORY

- 3.1 CHE/11/00276/TEL - Installation of 14.8m high slim line street works monopole supporting 3 antennas, one outdoor cabinet to accommodate operators equipment and a meter cabinet – **PRIOR NOTIFICATION APPROVAL (22.06.2011)**
- 3.2 CHE/14/00579/TEL - Upgrade of existing telecommunications base station comprising the replacement with minor relocation of 14.8m high column with 15m high column (height including antenna shroud), 3 No



Site photographs taken June 2021 facing north and south along Canal Wharf

- 4.2 The Agent has indicated that regeneration of this was a preference above a new site being identified. At the time of writing this report no further information in respect of this has been submitted however and details regarding existing and proposed coverage have been request and have not been forthcoming. The Agent has stated that a 20m high monopole is requested to provide the necessary coverage for the area and any reduction in height would impact coverage. The Agent has also stated that 5G masts cannot be shrouded as this impacts on the 5G performance.

5.0 **CONSIDERATION**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that, 'applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise'. The relevant Development Plan for the area comprises of the Chesterfield Borough Local Plan 2018 – 2035.

5.2 **Chesterfield Borough Local Plan 2018 – 2035**

- CLP2 Principles for Location of Development
- CLP14 A Healthy Environment
- CLP20 Design
- CLP22 Influencing the demand for travel

5.3 **National Planning Policy Framework 2021**

- Chapter 2. Achieving sustainable development
- Chapter 8. Promoting healthy and safe communities
- Chapter 10. Supporting high quality communications

- Chapter 12. Achieving well-designed places

5.4 Other documents of relevance:

- Code of Best Practice on Mobile Phone Network Development (CLG 2002).
- Mobile Phone Base Stations and Health (Department of Health 2005).
- International Commission on Non-Ionizing Radiation Protection (ICNIRP): Exposure to High Frequency Electromagnetic Fields, Biological Effects and Health Consequences (100Khz – 300Ghz) (2009).
- Report of the Independent Expert Group on Mobile Phones: 'Stewart Report' (April 2000).
- National Radiological Protection Board (NRPB) Report R321: Exposure to Radio Waves near Mobile Phone Base Stations (June 2000).

5.5 Principle of Development

5.5.1 The application is submitted for full planning permission for the erection of a replacement mast and associated cabinets.

5.5.2 Para. 117 of the revised NPPF sets out that applications for telecommunications (including prior approval) 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.

5.5.3 Noting that these proposals are for a replacement mast and new base station the application is supported by an ICNIRP declaration dated 3rd

August 2021 stating the installation will not exceed International Commission on non-ionising radiation protection guidelines. The supplementary information supporting the application details that the purpose of the proposal is to provide a replacement installation for an existing site.

5.5.5 Having regard to the site selection criteria of paragraph 117 the applicant is looking to use an existing site, so has not considered a range of sites in the area. They were of the opinion that the proposed site was the best in relation to the operator's requirements having regard to coverage and line of sight considerations.

5.5.6 Chapter 10 of the revised NPPF set the policy framework against which the development principle should be considered. Having regard to this framework it is considered, given the evidence supporting the application outlined above in accordance with part b paragraph 117, that the principle of development is acceptable.

5.6 Appearance and Neighbour Effect

5.6.1 In relation to appearance, some of the issues that can be considered include

- height of the site in relation to surrounding land,
- topography of the site and vegetation,
- openness and visibility of the site,
- designated areas,
- the site in relation to existing masts,
- structures or buildings, and
- proximity to residential property.

5.6.2 The application site is located on the south side of Canal Wharf in a location where existing street furniture is limited with the exception of street lighting columns which are relatively low level in respect to the existing mast. There are some mature trees on each side of Canal Wharf highway which provide some visual screening however the trees are smaller in size than the existing 15m high mast.

5.6.3 The proposed replacement mast will be sited approximately 6m further north from the existing mast, moving the structure further from existing mature trees to the south of the site. The mast is also larger in width and size, the antennas are also not shrouded so the structure will appear visually 'busy' with associated 5G paraphernalia attached to the mast and also in the form of additional ground level cabinets. By virtue

of the size, location and design of the proposed mast it is acknowledged that the proposal will be more visually prominent within the streetscene.

- 5.6.4 The application site is not located within a conservation area, however there is a locally listed building within the new residential development approximately 40m directly to the west of the application site. New residential dwellings are located facing onto Canal Wharf highway immediately opposite the site.
- 5.6.5 The Council's Environmental Health Officer raised no specific concerns in respect of the development (matter regarding public health and fear will be addressed in the following section).
- 5.6.6 On balance, taking into account the presence of an existing mast in this location and whilst the proposed 5G mast will be larger in size and scale it is considered that the proposal is acceptable.

5.7 Public Health & Fear

- 5.7.1 Proposals such as that applied for, especially where in close proximity to dwellings, can lead to public concerns at the potential for adverse health impacts from the emissions generated by the telecommunications antennae.
- 5.7.2 Guidance in para. 114-118 of the revised NPPF set out the required evidence to justify the proposed development and state that LPAs must determine applications on planning grounds. The NPPF further indicates that they should not seek to question the need for the telecommunications system; or determine health safeguards if the proposal meets International Commission guidelines for public exposure.
- 5.7.3 It remains central Government's responsibility to decide what measures are necessary to protect public health. In the Government's view, if a proposed mobile phone base station meets the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines for public exposure it should not be necessary for the LPA, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.
- 5.7.4 In considering the public health implications of the proposal, it is considered that the Government and Health Protection Agency are the appropriate bodies for setting guidelines and controls to protect the public, and that significant weight is given to the NPPF and the current

approach taken by Government on the matter. In this respect the applicants have certified ICNIRP Guideline compliance for the proposed installation. Furthermore, given the recent ICNIRP studies conclusions it would appear that there is no reliable evidence to date that exposure to the electro-magnetic radiation associated with mobile phones and similar technologies can lead to a significant health risk and therefore insufficient reason to deviate from the Governments guidance.

- 5.7.5 Consequently it is considered that a refusal on grounds of there being a material threat to public health could not be sustained at appeal. Notwithstanding this however, it is likely to be impossible to prove scientifically that no risk exists, and speculation can give rise to a level of public fear which is a material consideration. The officer does not consider that these concerns surrounding public health risk outweigh the Government's guidance in the NPPF and that this Planning Authority could sustain a refusal on grounds of public fear and an adverse effect on amenity as a consequence of this.

5.8 Highways Safety

- 5.8.1 Local Plan policies CLP20 requires the consideration of highway and pedestrian safety. In relation to highway safety the Local Highways Authority were consulted on the proposal and they requested that further information be provided to demonstrate that minimum visibility sightlines were preserved/protected from the adjacent commercial premises and requested that any new cabinets be located directly at the rear of the footway to enable access for pedestrians.
- 5.8.2 The agent provided a revised drawing showing the cabinets and masts set back to the rear of the footway. Visibility splay details were not provided however it is clear from the photograph below that the new mast and cabinet set no further forwards on the pavement than the existing will not interrupt the necessary visibility to the south direction from the exit to Eriks car park. The photograph is taken from the centre of the exit at 2.4 metres back from carriageway edge. The footpath is 2.6 metres wide.
- 5.8.3 After reviewing the proposal the officer considers that the proposal would not have a detrimental impact upon the highways network of the local area. On this basis the proposal is considered to accord with the provisions of policies CLP20 of the Local Plan.



5.9 Coal Mining Risk

- 5.9.1 The application site is located within an area classified as a 'High Risk Development Area' for former coal mining legacy. The Coal Authority has confirmed that as the application is submitted in full a Coal Mining Risk Assessment is required. It is necessary to note that prior notification applications for telecommunications equipment are exempt from the provision of Coal Mining Risk Assessment and there is an existing mast within the immediate proximity of the proposal located within the public highway. In such circumstances, given the proposal is wholly within public highway limits, it is recommended that a condition

be imposed requiring the submission of a Coal Mining Risk Assessment and any remediation/mitigation measures if required prior to the commencement of development for written approval by the Local Highways Authority in conjunctions with The Coal Authority. Subject to a relevant condition the application is considered to accord with Local Plan policy CLP14.

6.0 REPRESENTATIONS

6.1 Letter of objection received from one residential neighbour summarised briefly below;

- mast is 20m high wide as an oak tree and with 6 antennas on the top. This is very different than the current mast which is discreet and does not impact on the character of the area. Current mast is 15m high and green in colour
- proposal will have a negative impact on the character of the area including Grade II listed historical building former chamber of commerce. The mast will change the appeal of Canal Wharf as a leafy suburban street and may reduce house prices for the new development opposite the mast. The mast is the kind you would find in an out of town business park, industrial area or town centre not 20m from housing in a quiet area
- concerns raised about the excessive number of cabinets and supporting infrastructure which will narrow the pavement used by students/cyclist and pedestrians
- opposition to mast is also 5G technology which uses much higher frequency (up to 300GHz) radio waves than the 21-27 GHz in the past and makes use of very new and relatively unevaluated in terms of safety to enable higher data transmission capacity. This technology provides little benefit to the local residents who already have very good mobile signal. The proposal is next to the children's play park and is not the ideal place to be testing new technology which could have a detrimental impact on health of local residents. Studies in South Korea found that it can impact wildlife and biodiversity in the area surrounding a transmitter.

6.2 Officer comments – the above comments have been noted, matters of design/appearance/siting of the mast, impact on character and setting of building (not Grade II list but locally listed) and public health/fear have been addressed in the report

7.0 HUMAN RIGHTS ACT 1998

- 7.1 Under the Human Rights Act 1998, which came into force on 2nd October 2000, an Authority must be in a position to show:
- Its action is in accordance with clearly established law
 - The objective is sufficiently important to justify the action taken
 - The decisions taken are objective and not irrational or arbitrary
 - The methods used are no more than are necessary to accomplish the legitimate objective
 - The interference impairs as little as possible the right or freedom

7.2 The action in considering the application is in accordance with clearly established Planning law and the Council's Delegation scheme. It is considered that the recommendation accords with the above requirements in all respects.

8.0 STATEMENT OF POSITIVE AND PROACTIVE WORKING WITH APPLICANT

8.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and the National Planning Policy Framework (NPPF) as the proposed development does not conflict with the NPPF and with 'up-to-date' policies of the Local Plan, it is considered to be 'sustainable development' to which the presumption in favour of the development applies.

8.2 The Local Planning Authority have during the consideration of this application engaged in a positive and proactive dialogue with the applicant in order to achieve a positive outcome for the application.

9.0 CONCLUSION

9.1 It is considered for the context of the area, the proposed installation is acceptable in appearance and design. It is acknowledged there is an increase in height of 5 metres and this will have an increased visual impact, on the basis of the existing arrangement and presence of one existing mast, it is not considered this impact is such that a refusal is required. The mast will be finished in dark green which will lessen the visual impact and enable the proposal to reflect the existing arrangement.

10.0 RECOMMENDATION

10.1 It is therefore recommended that the application be **GRANTED** subject to the following:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - The condition is imposed in accordance with section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby approved shall only be carried out in full accordance with the approved plans (listed below) with the exception of any approved non-material amendment. All external dimensions and elevational treatments shall be as shown on the approved plan/s (listed below).
 - Proposed Site Plan, drawing number 201 Revision A (received 24.11.2021)
 - Proposed Site Elevation, drawing number 301 Revision A (received 24.11.2021)

Reason - In order to clarify the extent of the planning permission in the light of guidance set out in "Greater Flexibility for planning permissions" by CLG November 2009.

3. a) Prior to the commencement of development a Coal Mining Risk Assessment shall be submitted to the Local Planning Authority for consideration and written approval. The Coal Mining Risk Assessment shall appropriately detail the risks posed to the development and conclude whether intrusive site investigations are required and any remediation and/or mitigation measures to ensure the safety and stability of the site.

b) If the approved Coal Mining Risk Assessment requires intrusive site investigations and/or any remediation and/or mitigation measures a scheme of investigations shall be carried out on site to establish the risks posed to the development and any remediation works and/or mitigation measures to address land instability arising from coal mining legacy. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance

c) If intrusive site investigations and/or any remediation and/or mitigation measures are required a document/report of the findings of the investigations and mitigation/remediation undertaken shall be submitted to the Local Planning Authority for written approval prior to the installation of the mast. The document/report shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to

address the risks posed by past coal mining activity and shall include a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development.

Reason - To ensure appropriate site stability due to former Coal Mining Activity in accordance with Policy CLP14 of the Adopted Local Plan.

Informative Notes

1. If work is carried out other than in complete accordance with the approved plans, the whole development may be rendered unauthorised, as it will not have the benefit of the original planning permission. Any proposed amendments to that which is approved will require the submission of a further application.