

Item no.

Report to: **Development Control and Regulatory Panel**

Date: **25 November 2008**

Report of: **Head of Planning and Building Control Services**

Subject: **Applications under the Town and Country Planning Acts**
Town and Country Planning Act 1990
Planning (Listed Buildings and Conservation Areas) Act 1990

Ward: **All**

A INTRODUCTION

Members are advised that in preparing the attached report full consultation responses are not presented. Care is taken to ensure that principal issues of all relevant responses are incorporated into the report. Notwithstanding this Members are invited to view all submitted plans and consultation responses prior to the Panel meeting by contacting the Head of Planning and Building Control Services.

The District of Easington Local Plan was adopted by the District of Easington on 28th December 2001 and together with the Durham County Structure Plan it has been a material consideration in the determination of planning applications. However the Planning and Compulsory Purchase Act 2004 determined that all Local Plans would expire three years after the Act came into force. This took effect on the 27th September 2007. In order to maintain continuity in the development plan system, the Council identified policies that should be 'saved' for an extended period until alternative policies are adopted in Local Development Frameworks. Direction from the Secretary of State has been received and all of those policies have been retained. The saved policies and Planning Policy Statements from the Government will be considered in the determination of planning applications. A view as to whether the proposals generally accord with them is identified in the relevant section.

Section 54A of the 1990 Town & Country Planning Act (as amended) requires the Local Planning Authority to have regard to the development plan policies when they are relevant to an application and hence are a material consideration. Where such policies are material to a proposal, section 54A requires the application to be determined in accordance with the Development Plan policies unless material considerations indicate otherwise.

The recommendations contained in this report have been made taking into account all material planning considerations including any representations received and Government guidance in Planning Policy Guidance Notes and Circulars. Consideration has been given to whether proposals cause harm to interests of acknowledged importance.

Members' attention is drawn to information now provided in respect of time taken to determine applications. Following each recommendation a determination time is provided based on a decision at this Panel. Where a decision time exceeds the 8 week target a reason for this is given in brackets.

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In considering the applications and preparing the report the District of Easington has fully taken into account the duties imposed on Local Planning Authorities by the Human Rights Act 1998. In particular, regard has been given to Articles 6, 7, and 8, the First Protocol and Section 6. Where specific issues of compliance with this legislation have been raised these are dealt with within each report.

B SPEAKING AT THE PANEL

The District Council is one of the few Councils in the country who allows verbal representations when decisions on planning applications are being made. The Panel has to balance listening to views with the efficient conduct of the business of the Panel. The following procedures have therefore been agreed. These procedures will be adhered to in respect of the items within this report. Members of the public will also be expected to follow these both in their own interests and that of other users of the service.

1. The Planning Officer will present his report.
2. Objectors and supporters will be given the opportunity to speak. Five minutes will be given to each speaker. If there is more than one speaker upon an issue, the District Council recommends the appointment of a spokesperson and that speakers register their request prior to the Panel meeting.
3. After registered speakers have had their say the Chair of the Panel will ask if there is any other member of the public who wishes to speak. Those who do may be allowed to speak. The Chair of the Panel will exercise discretion in this regard. Where the number of speakers or the repetitive nature of the points that may be raised may impact on the other business of the Panel then the Chair will restrict the number of speakers and progress the matter.
4. The applicant or representative may then speak for a duration of up to five minutes.
5. At the discretion of the Chair, objectors or supporters or applicants may ask officers questions then may be asked questions by Members and Officers
6. The Members of the Panel will then finally debate and determine the application with the assistance of officers if required.

C RISK ASSESSMENT

A risk assessment has been carried out in respect of individual cases. Overall, it is concluded that any risks to the Council, for example relating to an appeal being lost and costs awarded against the Council, are low, provided that decisions are made in accordance with recommendations. Risks will increase when decisions are made contrary to recommendations, and the degree will vary depending on the particular case.

D GENERAL APPLICATIONS

PLAN/2008/0523

Easington Colliery (Easington Colliery) - 12 NO. 2 BED BUNGALOWS AND EXTERNAL WORKS at LAND REAR OF LEECH COURT, EASINGTON for ISOS HOUSING

Location Plan



The Application Site

The application site lies within the settlement boundary of Easington Colliery on a former site of terraced housing, which has been demolished. The site, although now grassed over and tree planted, is identified as being brownfield land. There are residential properties to the east, south and west; the former colliery site and allotments are situated to the north.

The Proposed Development

The application proposes twelve, two bedroom bungalows with private rear gardens and off street parking. The bungalows would be built to the Code for Sustainable Homes Level 3, Lifetime Homes Standard and Secured by Design and would provide rented accommodation for tenants over 55 years old. The bungalows are arranged in three blocks of four and are orientated to maximise the potential for private and shared space within the development and to facilitate natural surveillance of the site. There are brick retaining walls around the site due to the gradient; these would be topped by timber fencing to provide enclosures for the bungalows. The scale and design of the bungalows is similar to that of the Leech Court development, which adjoins the site to the south. Solar panels are to be installed on the south facing roofs of the bungalows in order to comply with RSS policy and the Code for Sustainable Homes level 3.

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Site History

The site lies on a brownfield site where terraced housing has been demolished. No relevant planning history.

Planning Policy

District of Easington Local Plan

ENV35 - Environmental Design: Impact of Development

ENV36 - Design for Access and the Means of Travel

ENV37 - Design for Parking

ENV38 - Designing Out Crime

GEN01 - General Principles of Development

HOU66 - Provision of outdoor play space in new housing development

HOU67 - Windfall housing sites

Regional Spatial Strategy

RSS38 – Sustainable Construction

Planning Policy Statements

PPS3 - Housing

Consultations and Publicity

Parish Council – no response.

DCC Highways – the Highways Authority has no objections to the proposals but has requested clarification from the applicants with regard to footpaths and retaining walls. Discussions are still ongoing between the Highways Authority and the applicants in relation to maintenance and adoption, this is considered to be an issue that can be resolved between the two parties separately from this planning application.

Northumbrian Water – No objections to the proposal, however a condition has been requested in order to control discharge of surface water.

Environmental Health – requests contaminated land assessment, restrictions on working hours and no burning of waste on site (this latter is a matter to be dealt with through good working practices and environmental health legislation).

Neighbours – 2 comments, 1 objection. Comments relate to increased traffic, concerns of youths congregating, discrepancy on application forms relating to trees.

Planning Considerations and Assessment

- Amenity impact on neighbours/street scene
- Highways issues
- Accordance with Local Plan policies

Amenity impact on neighbours/street scene

It is considered that the proposal would have no adverse impact on existing surrounding residents. All distancing standards as set out in the Local Plan are met

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in relation to the proposed development and existing properties that surround the site. There are distancing standards that do not meet the normal requirements within the site but this is considered acceptable due to the type of housing involved, with limited private garden areas and increased overlooking for security.

The scheme incorporates bungalows which reflect the existing buildings within the Leech Court development adjoining the site. The design standard is considered to be good quality and as such, it is not considered that the proposal would cause any significant adverse impact on the street scene or surrounding occupiers.

Highways issues

There are no Highways Authority objections to the scheme. Amendments to the scheme have been agreed in relation to footpath access and retaining walls, however some maintenance and adoption issues remain in relation to this that can be resolved after this application is decided.

Accordance with Local Plan policies

The proposal is considered to be in accordance with all but one of the relevant development plan policies. Saved policy 66 of the District of Easington Local Plan states that developers should provide adequate recreation space in relation to new housing developments of 10 or more dwellings. Where it is inappropriate to make provision within the development site, it may be necessary to secure provision elsewhere. As such, it would usually be necessary in such circumstances to make a financial contribution. However, the applicant, Durham Aged Miners Housing Association, have submitted information that seeks to justify non-payment of a financial contribution towards offsite recreation space. They state that “the scheme would not stack up financially if DAMHA were forced to make a contribution. DAMHA are using their own subsidy in addition to the Housing Corporation grant to make this scheme viable. The high nature of the scheme costs ensures that DAMHA are effectively losing money on this scheme and are paying for numerous offsite works”. The applicant has submitted financial statements showing details of costs to further justify their position. Given the financial restraints and need for affordable housing in this locality, and as the scheme relates to affordable housing for the over 55's and not family housing, in this instance it is considered that a financial contribution for recreational space is not required.

Conclusion

Taking all relevant planning matters into account it is considered that the proposal is acceptable. The scheme will provide much needed affordable bungalows in the area and would be of a good quality design, with no adverse impacts to surrounding occupiers or the street scene.

Recommendation

Approval subject to the following conditions: amended plans, landscaping scheme, materials, surface water discharge, construction hours, contaminated land assessment

Reason for Approval

The proposal is considered to be acceptable in planning terms and would contribute to the need for this type of affordable housing in the vicinity. The proposal is considered to be in accordance with the following development plan policies:

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District of Easington Local Plan

ENV35 - Environmental Design: Impact of Development
ENV36 - Design for Access and the Means of Travel
ENV37 - Design for Parking
ENV38 - Designing Out Crime
GEN01 - General Principles of Development
HOU67 - Windfall housing sites

Regional Spatial Strategy

RSS38 – Sustainable Construction

Planning Policy Statements

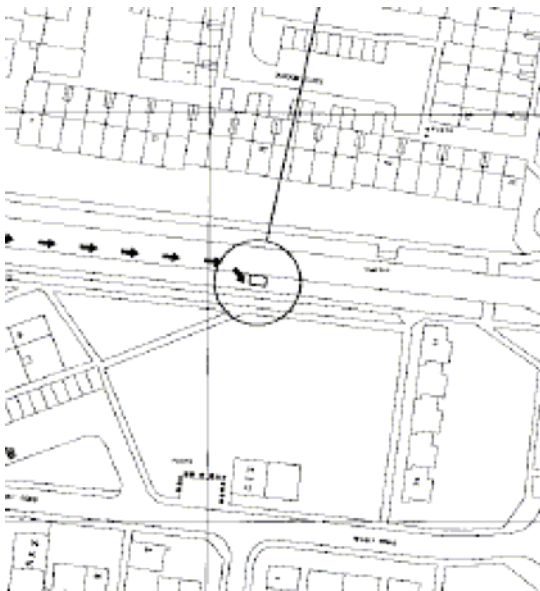
PPS3 - Housing

Decision time 11 weeks – target achieved.

PLAN/2008/0616

Peterlee (Dene House) - VODAFONE BASE STATION INSTALLATION at GRASS VERGE ADJACENT YODEN WAY, PETERLEE for VODAFONE UK LTD

Location Plan



The Application Site

The application site is close to Peterlee Town Centre on Yoden Way. The site is adjacent to an open area of grassed land, and there are residential properties nearby, the closest being around 25 metres away in Duddon Close.

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The Proposed Development

This application is submitted as a Telecommunications Development Notification under the provisions of the Town and Country Planning (General Permitted Development) Order 1995. This Order grants planning permission for the erection of telecommunications masts below 15 metres in height subject to the submission of an application to the local planning authority as to whether the prior approval of the authority is required to the siting and appearance of the mast. This application is such a submission and is not an application for planning permission.

This application proposes a 12 metre high slim line monopole with three antennas. The overall height including antennas would be 14.3 metres. There would also be an equipment cabinet at the base of the mast.

In support of the proposal the agent has submitted the following statement:-

“Full account has been taken of PPG8. The Code of Best Practice and Development Plan policies in selecting the optimum site to provide replacement network coverage to the target area, and that a robust site identification process was undertaken in choosing the application proposal, in terms of both its siting and design, taking into account any technical constraints. The pre-application consultation process was undertaken and the relevant ICNIRP certificate provided”.

The applicants have confirmed that these telecommunications proposals are designed to be in full compliance with the requirements of the radio frequency (RF) public exposure guidelines on the International Commission on Non-Ionising Radiation Protection (ICNIRP) as expressed in EU Council recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz). Standards have been set by the ICNIRP to ensure that the telecommunications equipment operates at low power levels.

Site History

No relevant history.

Planning Policy

District of Easington Local Plan

GEN01 - General Principles of Development

PPG8 - Telecommunications

ENV35 - Environmental Design: Impact of Development

Consultations and Publicity

The applicants state that they carried out a pre-application consultation with local residents and Councillors, which resulted in two responses. These responses related to health concerns and possibility of TV interference. The applicant responded to these concerns directly.

Town Council – no response.

DCC Highways – no objections.

Environmental Health – no objections.

Neighbours – one letter of objection has been received. The resident is concerned that the mast would be an eyesore, would attract congregations of local youths, affect house prices and has concerns regarding effects on health.

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A petition has been organised by the objector, which includes 31 names from residents at 23 properties. The petition raises the same concerns as stated in the objection letter.

Planning Considerations and Assessment

The Government's general policy on telecommunications is PPG8 - 'Telecommunications' which seeks to facilitate the growth of new and existing systems.

Local Planning Authorities are advised by PPG8 not to question the need for the services which a proposed development is to provide and are encouraged to respond positively to telecommunications development proposals, especially where the proposed location is constrained by technical considerations, while taking account of the advice on the protection of urban and rural areas in other planning policy guidance notes.

Siting and Design

This application is a prior notification and relates only to the siting and design, therefore the only material planning considerations relate to the siting and design of the mast and equipment cabinet.

The Government encourages mast and site sharing where appropriate. Operators are required to provide evidence to suggest to Local Planning Authorities that they have carefully considered the use of existing masts, buildings and other structures before seeking to erect any new mast, regardless of size. The applicants have provided such information.

In seeking to arrive at the best solution for an individual site, authorities and operators are encouraged to use sympathetic design and camouflage to minimise the impact of the development on the environment in terms not only of masts and structures but also materials and colouring. It is considered that the proposed siting and design of the proposed mast are acceptable. The mast is a slim monopole design and would have an impact similar to that of surrounding street lighting poles. To improve the appearance the equipment should be of a similar colour to the surrounding street lights, this can be controlled through condition.

Concerns from residents

In response to growing concerns from the general public the Government commissioned the 'Independent Expert Group on Mobile Phones' to examine the impact of telecommunications apparatus on health, Sir William Stewart chaired the Commission and the report was published in May 2000.

The Stewart Report encouraged mast sharing and recommended that as a precautionary approach the International Commission on Non Ionizing Radiation Protection (ICNIRP) guidelines for public exposure be adopted for use in the UK rather than the National Radiological Protection Board (NRPB) guidelines.

In respect of base stations the Stewart Report 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 the guidelines. However, there can be indirect adverse effects on their well-being in some cases".

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The Group recommended a precautionary approach comprising a series of specific measures to the use of mobile phone technologies until we have more detailed and scientifically robust information on any health effects.

For example PPG8 'Telecommunications' states:-

Health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker (usually the Local Planning Authority) to determine what weight to attach to such considerations in any particular case.

However, it is the Government's firm view that the planning system is not the place for determining health safeguards. 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 ICNIRP guidelines for public exposure it should not be necessary for a Local Planning Authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.

The Government's acceptance of the precautionary approach recommended by the Stewart Group's report "mobile phones and health" is limited to the specific recommendations in the Group's report and the Government's response to them. The report does not provide any basis for precautionary actions beyond those already proposed. In the Government's view, Local Planning Authorities should not implement their own precautionary policies e.g. by way of imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunication development and existing development.

It should be noted that the High Court has recently overturned several appeal decisions where telecommunications development was refused due to the perception of fear against the health and well-being of the resident population. The High Court in allowing the development made clear that so long as the development is undertaken in accordance with the ICNIRP standards then it should not be necessary for a Local Planning Authority in processing an application to consider the health effects further.

The applicants have indicated that the proposed telecommunications equipment is "designed to be in full compliance with the requirements of the radio frequency (RF) public exposure guidelines on the International Commission on Non-Ionising Radiation Protection (ICNIRP), as expressed in EU Council recommendation of 12 July 1999".

In addition to the above, it is not considered that the proposal would directly lead to any significant noise or disturbance due to congregation of youths.

It should also be noted that effects of development on house prices is not a material planning consideration.

A petition has been received from local residents objecting to the proposed telecommunications installation. The main issues raised include the impact of the development on the visual amenity of the site and immediate surrounding area and its impact on the health and well-being of the resident population, particularly young children.

The concerns expressed by local residents in terms of the impact of the development on their health and well-being has been considered by the Local Planning Authority.

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However, it is felt that such concern cannot be seen as a reason in itself for exercising control over the siting of the development given that the equipment is strictly regulated by Central Government under the terms of the Telecommunications Code Systems Licence.

The Government has written to all Local Planning Authorities making it clear that if a proposed development meets with the ICNIRP guidelines then it is not necessary for an authority in processing an application to consider the health effects further.

Conclusion

The mast would be similar in appearance to nearby street lighting poles, and is located in the highway verge, not immediately adjacent to residential properties. Accordingly, the siting and design are considered acceptable, and it is not considered necessary to require further details.

Recommendation

That no further details of siting or design are required, subject to agreeing the colour.

Reason for Approval

It is considered that the siting and design of the telecommunications equipment are acceptable and accords with the relevant planning policies.

District of Easington Local Plan

GEN01 - General Principles of Development

PPG8 - Telecommunications

ENV35 - Environmental Design: Impact of Development

Decision time

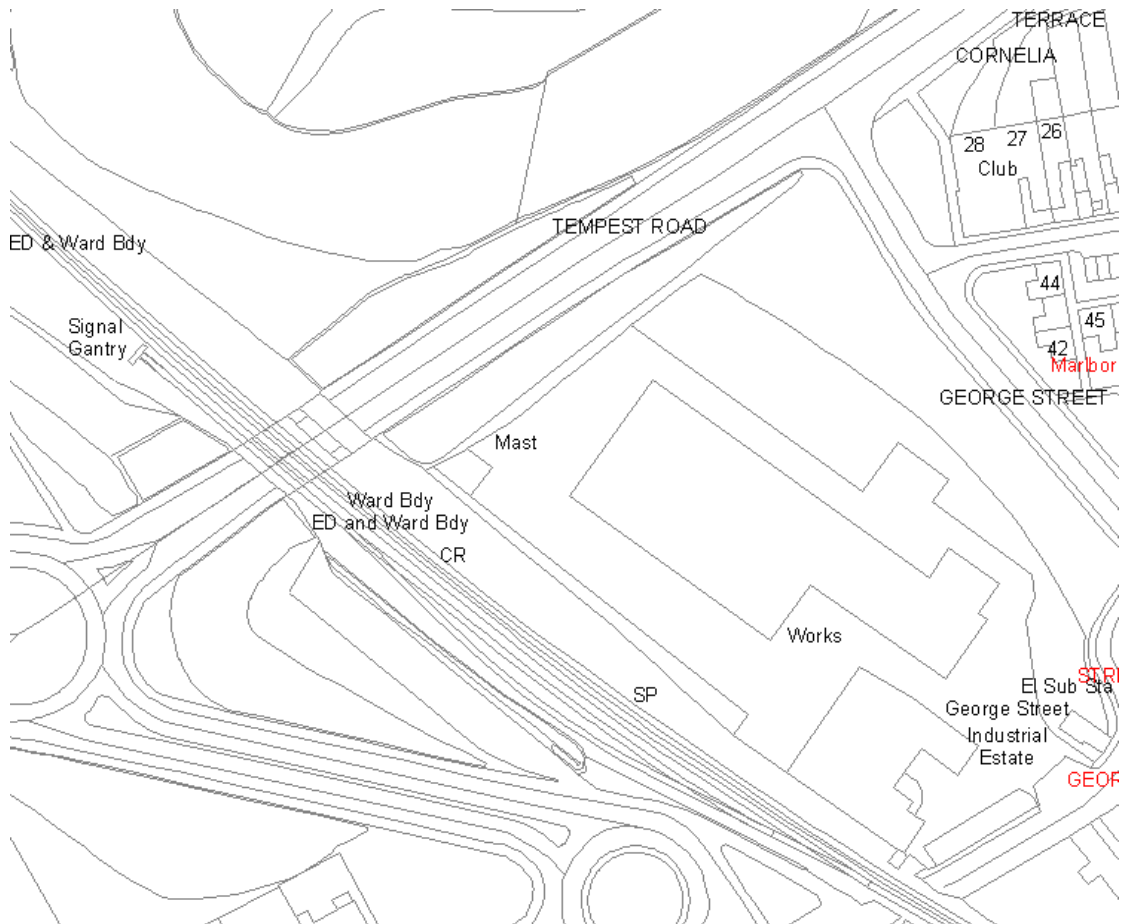
7 weeks – target met.

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PLAN/2008/0644

Seaham (Seaham Harbour) - TELECOMMUNICATIONS INSTALLATION, INCLUDING ADDITIONAL ANTENNAE at GEOFFREY MASKELL ENGINEERING LTD, GEORGE STREET INDUSTRIAL ESTATE, SEAHAM for VODAFONE LTD

Location Plan



The Application Site

The application relates to an existing telecommunications mast situated in the north-west corner of the Geoffrey Maskell Engineering Ltd site on George Street to the west of Seaham town centre. The existing telecommunications mast is 15 metres in height and currently has three installed antenna.

The Proposed Development

This application is submitted as a Telecommunications Development Notification under the provisions of the Town and Country Planning (General Permitted Development) Order 1995. This Order grants planning permission for the erection of telecommunications masts that meet certain criteria subject to the submission of an application to the local planning authority as to whether the prior approval of the authority is required to the siting and appearance of the mast. This application is such a submission and is not an application for planning permission.

This application proposes the replacement of the existing spine mount and head frame of the telecommunications mast with one capable of installing additional

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antennae. The proposed works will allow for the installation of 3 no. existing Orange antennae and additional 3 no. Vodafone Antennae at 14.3 metres height. The proposal also includes the installation of 2 no. 300mm Transmission dishes at 11.5 metres in height.

The applicants have stated that the proposed new apparatus is required to replace existing equipment at a nearby site at Seaham Motor Company, Station Road, Seaham, where the current lease is due to expire early next year.

The applicants have confirmed that these telecommunications proposals are designed to be in full compliance with the requirements of the radio frequency (RF) public exposure guidelines on the International Commission on Non-Ionising Radiation Protection (ICNIRP) as expressed in EU Council recommendation of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz). Standards have been set by the ICNIRP to ensure that the telecommunications equipment operates at low power levels.

Site History

TDD/00/527 – Telecommunications Monopole with Ancillary Equipment – Permitted Development

Planning Policy

District of Easington Local Plan

GEN01 - General Principles of Development

GEN35 – Impact of Development

ENV35 – Environmental Design: Impact of Development

National Planning Guidance

PPG8 - Telecommunications

Consultations and Publicity

This application is submitted as a Telecommunications Development Notification under the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as such the Local Planning Authority have 56 days within which to notify the applicant as to whether or not control will be exercised over the proposed development. In order to meet this deadline the recommendation report to panel was finalised prior to the expiry of the consultation period. Any responses received will be reported to Members verbally at the meeting.

Town Council – no comments received at the time of preparing this report.

DCC Highways – no objections.

Environmental Health – no comments received at the time of preparing this report.

Neighbours – no representations received at the time of preparing this report.

Planning Considerations and Assessment

The Government's general policy on telecommunications is PPG8 - 'Telecommunications' which seeks to facilitate the growth of new and existing systems.

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Local Planning Authorities are advised by PPG8 not to question the need for the services which a proposed development is to provide and are encouraged to respond positively to telecommunications development proposals, especially where the proposed location is constrained by technical considerations, while taking account of the advice on the protection of urban and rural areas in other planning policy guidance notes.

Siting and Design

This application is a prior notification and relates only to the siting and design, therefore the only material planning considerations relate to the siting and design of the mast and equipment cabinet.

The Government encourages mast and site sharing where appropriate. Operators are required to provide evidence to suggest to Local Planning Authorities that they have carefully considered the use of existing masts, buildings and other structures before seeking to erect any new mast, regardless of size. The applicants have provided such information.

In seeking to arrive at the best solution for an individual site, authorities and operators are encouraged to use sympathetic design and camouflage to minimise the impact of the development on the environment in terms not only of masts and structures but also materials and colouring. It is considered that the proposed siting and design of the proposed mast are acceptable. The application relates to an existing mast; it is considered that the proposed works will only have a minimal effect on the appearance of the installation, insufficient to warrant exercising control over the proposed works.

Potential Concerns from residents

Due to the time constraints in determining this application, the recommendation report has been finalised prior to the public consultation process expiry. At the time of preparing the report no concerns had been raised regarding the installation by any consultees or members of the public. Any comments received will be reported to Members at the panel meeting.

Applications for Telecommunication Installations are often contentious, and objections are made on various grounds. Particular concerns can be raised regarding the impact on public health of such installations. Accordingly, it is considered appropriate to address this issue for Members information.

In response to growing concerns from the general public the Government commissioned the 'Independent Expert Group on Mobile Phones' to examine the impact of telecommunications apparatus on health, Sir William Stewart chaired the Commission and the report was published in May 2000.

The Stewart Report encouraged mast sharing and recommended that as a precautionary approach the International Commission on Non Ionizing Radiation Protection (ICNIRP) guidelines for public exposure be adopted for use in the UK rather than the National Radiological Protection Board (NRPB) guidelines.

In respect of base stations the Stewart Report 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 the guidelines. However, there can be indirect adverse effects on their well-being in some cases".

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The Group recommended a precautionary approach comprising a series of specific measures to the use of mobile phone technologies until we have more detailed and scientifically robust information on any health effects.

For example PPG8 'Telecommunications' states: health considerations and public concern can in principle be material considerations in determining applications for planning permission and prior approval. Whether such matters are material in a particular case is ultimately a matter for the courts. It is for the decision-maker (usually the Local Planning Authority) to determine what weight to attach to such considerations in any particular case.

However, it is the Government's firm view that the planning system is not the place for determining health safeguards. 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 ICNIRP guidelines for public exposure it should not be necessary for a Local Planning Authority, in processing an application for planning permission or prior approval, to consider further the health aspects and concerns about them.

The Government's acceptance of the precautionary approach recommended by the Stewart Group's report "mobile phones and health" is limited to the specific recommendations in the Group's report and the Government's response to them. The report does not provide any basis for precautionary actions beyond those already proposed. In the Government's view, Local Planning Authorities should not implement their own precautionary policies e.g. by way of imposing a ban or moratorium on new telecommunications development or insisting on minimum distances between new telecommunication development and existing development.

It should be noted that the High Court has recently overturned several appeal decisions where telecommunications development was refused due to the perception of fear against the health and well-being of the resident population. The High Court in allowing the development made clear that so long as the development is undertaken in accordance with the ICNIRP standards then it should not be necessary for a Local Planning Authority in processing an application to consider the health effects further.

The applicants have indicated that the proposed telecommunications equipment is "designed to be in full compliance with the requirements of the radio frequency (RF) public exposure guidelines on the International Commission on Non-Ionising Radiation Protection (ICNIRP), as expressed in EU Council recommendation of 12 July 1999".

Conclusion

The proposed works relate to an existing telecommunications installation a substantial distance away from residential properties and on an industrial estate. As such the siting and design are considered acceptable. It is considered that the Local Planning Authority should not exercise control over the siting and appearance of the development thereby allowing the development to proceed unconditionally.

Recommendation

That no further details of siting or design are required; and that delegated authority be given to the Head of Planning and Building Control Services to issue this decision, as long as no adverse comments are received prior to the expiry of the consultation period on any matters not already dealt with in this report.

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Reason for Approval

It is considered that the siting and design of the telecommunications equipment is acceptable and accords with the relevant planning policies.

District of Easington Local Plan

GEN01 - General Principles of Development
GEN35 – Impact of Development

National Planning Guidance

PPG8 - Telecommunications

Decision time Within 8 weeks, target achieved.

E Background Papers

The following background papers have been used in the compilation of this report.

Durham County Structure Plan
District of Easington Local Plan
Planning Policy Guidance Notes
Planning Policy Statements
Regional Spatial Strategy
DETR Circulars
Individual application forms, certificates, plans and consultation responses
Previous Appeal Decisions



Graeme Reed
Head of Planning and Building Control