

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/03636/PNT
FULL APPLICATION DESCRIPTION:	Prior notification for installation of 15m Phase 9 monopole together with wraparound cabinet at base, 3no. ancillary equipment cabinets, and associated ancillary works.
NAME OF APPLICANT:	CK Hutchison Networks (UK) Ltd
ADDRESS:	Land South West Of Kepier Community Clinic Kepier Crescent Gilesgate Moor DH1 1PH
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to the public footpath within the adopted Highway to the front of Kepier Community Clinic in Kepier Crescent, Gilesgate Moor. The site is within a predominantly residential area, with the exception of the adjacent Clinic and Durham Gilesgate Primary School which is located approximately 100m to the north of the site. A public right of way (Belmont no. 5) lies to the north of the site and runs between the community clinic and primary school. The site lies outside of the conservation area and is not otherwise subject to any formal planning designation.

The Proposal

2. Prior notification is given to the Local Planning Authority of the applicant's intention to install a 15-metre-high Phase 9 monopole, together with wraparound equipment cabinet at the base, 3 no. ancillary equipment cabinets, and associated ancillary works. The proposed installation is required to provide effective network coverage and capacity, most notably in relation to new 5G services.
3. As a result of concerns with regards to the visual impact of the development, the scheme has been amended during consideration of the application which has resulted in the monopole being reduced from a height of 20 metres to a height of 15 metres. It is also noted that while the various equipment cabinets are included within the description of development these elements alone would be permitted development under the

provisions of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (GDPO) 2015 as amended.

4. Notwithstanding the above, under provisions of the prior approval process detailed through Part 16 of the GDPO, the Local Planning Authority (LPA) are only able to determine whether the prior approval of the LPA will be required as to the siting and appearance of the development, not the principle of development itself, as this is established by The Town and Country Planning (General Permitted Development) (England) Order 2015. The current application before the committee therefore relates solely to considering whether or not prior approval is required in relation to the siting and appearance of the proposal. In determining the application, the LPA must take into account any representations made to them as a result of consultations and those notices undertaken.
5. The application is referred to Planning Committee at the request of Councillors Eric Mavin and Lesley Mavin and Belmont Parish Council who consider the impact upon residential and visual amenity to be such that the application be considered by the committee.

PLANNING HISTORY

6. No relevant planning history.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. NPPF Part 10 Supporting High Quality Communications - The development of high-speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services. Local planning authorities should support the expansion of electronic communications networks, including telecommunications and high-speed broadband.
10. NPPF Part 12 - Achieving Well-Designed Places. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. NPPF Part 15 - Conserving and Enhancing the Natural Environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at

unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

12. The Government has consolidated several planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; design process and tools; determining a planning application; healthy and safe communities; natural environment; neighbourhood planning; noise; public rights of way and local green space; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan

13. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
14. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) states proposals will be permitted for new or extensions to existing energy generation, utility transmission facilities, telecommunication masts or other broadcast and broadband equipment which facilitate the electronic transfer of data where: it can be demonstrated that the scheme will not cause significant adverse impacts or that its benefits outweigh any adverse negative effects; where a new site is required applicants must demonstrate to the council's satisfaction that the use of existing sites in the area have been fully explored and are not feasible, and equipment must be sympathetically designed and camouflaged and not result in visual clutter; and where applicable, it does not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation operated in the national interest.
15. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
16. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and

other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

Neighbourhood Plan

17. The application site does not lie within a neighbourhood planning area with a plan to which regard must be had.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. Highway Authority – This application raises no concerns over road safety.

INTERNAL CONSULTEE RESPONSES:

19. Environment, Health and Consumer Protection (Nuisance Action Team) Section – notes that the applicant has provided a certificate of conformity with ICNIRP Public Exposure Guidelines and are satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.
20. Landscape Section – following the reduced height of the monopole, advised that although the mast would still be taller than the street lighting columns, trees, and houses in the vicinity, it would have a fairly slim and uncomplicated profile, with a shrouded antenna, which in the context of this urban setting would not be dissimilar to the existing lamp posts and telegraph poles and would not be as visually obtrusive or as dominant as the previous proposed elevations.
21. Ecology Section – raise no objection.

PUBLIC RESPONSES:

22. The application has been advertised by means of site notice displayed at the site, an advertisement published within The Northern Echo, and individual notification letters sent to neighbouring residents.
23. To date, 7 no. letters of objection have been received in relation to the application, including from Cllrs Eric and Lesley Mavin, Cllr Christine Fletcher, Belmont Parish Council, Durham Gilesgate Primary School, Gilesgate Residents Association, and Kepier Community Clinic. The concerns raised are summarised as follows:
 - The monopole would be visually intrusive and disproportionate in height when compared to adjacent structures and buildings.
 - The monopole is within 100m of Gilesgate Primary School and at the entrance to Kepier Community Clinic.
 - There is a lack of clarity in terms of potential risks to public health and there is a growing body of scientific evidence showing the potential health impacts of 5G EMF radiation on children, the elderly, and vulnerable adults.
 - There are more suitable sites available within the locality and limited consideration has been given to those alternatives.
 - The monopole is incompatible with the design and use of Community Clinic.

- The monopole will cause a significant loss of visual amenity to residents, particularly those living in 1, 2 and 57 Musgrave Gardens, and in 120-124 Bradford Crescent

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?keyVal=RMJ67PGDHZ200&activeTab=summary>

APPLICANT'S STATEMENT:

24. None provided.

PLANNING CONSIDERATIONS AND ASSESSMENT

25. Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, makes provision for the installation of certain telecommunications equipment. Such provision is subject to a prior notification procedure; however, the Local Planning Authority (LPA) are only able to determine whether the prior approval of the LPA will be required as to the siting and appearance of the development. In determining the application, the LPA must also take into account any representations made to them as a result of consultations and notices undertaken.
26. Part 10 of the NPPF supports high quality communications. Paragraph 114 advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Paragraph 115 states that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.
27. Para 117 advises that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:
- a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
 - b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
 - c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.
28. Paragraph 118 goes on to advise that 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.

29. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) of the County Durham Plan (CDP) states that proposals for new telecommunications masts will be permitted where:
- a) it can be demonstrated that the scheme will not cause significant adverse impacts or that its benefits outweigh any adverse negative effects.
 - b) it is located at an existing mast or transmission site, where it is technically and operationally feasible and does not result in visual clutter. Where a new site is required, applicants must demonstrate to the council's satisfaction that the use of existing sites in the area have been fully explored and are not feasible. Equipment must be sympathetically designed and camouflaged and not result in visual clutter; and
 - c) where applicable, it does not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation operated in the national interest.
30. In addition, Policy 29 (Sustainable Design) relates to sustainable design and states that all proposals will be required to create spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
31. As outlined above, the local planning authority are only able to determine whether prior approval will be required as to the siting and appearance of the development, not the principle of development itself, as this is established within The Town and Country Planning (General Permitted Development) (England) Order 2015.

Applicant's Case and Justification

32. In consideration of the points above, particularly relating to consultations with organisations (a), it is noted that the development is not within a statutory safeguarding zone and the applicant confirms, within their Site Specific Supplementary Information and Planning Justification Document (SID), that Durham Gilesgate Primary School (approximately 100m away) and St Hild's C of E Primary School were notified of the proposal prior to the submission of the application and no response was received.
33. In line with NPPF Paragraph 117 (b), the applicant has provided a certificate of conformity with ICNIRP Public Exposure Guidelines and as such officers do not raise concerns in relation to the development impacting upon the health of residents. It is acknowledged that objections have been received from residents in relation to the potential impacts of the development on public health. However, the NPPF is clear that local planning authorities should not determine health safeguards or set health safeguards different from the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure. The applicants have confirmed that the proposal would be in full compliance with these guidelines, and this is accepted by the LPA.
34. Paragraph 115 of the NPPF advises 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. As already noted, Paragraph 117 advises that applications for electronic communications development (including

applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.

35. The SID states that the site is required to provide new 5G coverage for H3G LTE, improving service in and around this area subject to this application and suggests that the cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m. The SID also states that they have adopted search criteria based on the sequential approach as outlined in the NPPF as follows:
- a) Mast and Site Sharing
 - b) Existing Buildings Structures
 - c) Ground Bases Installations

In compliance with its licence and the sequential approach outlined in the NPPF, the applicant states within the SID that attempts to utilise any existing telecommunication structures where they represent the optimum environmental solution have been employed. The SID explains that in this location 'existing mast sites are not capable of supporting additional equipment compliment to extend coverage reach across the target area and prospective 'in-fill' mast sites are extremely limited'. In further correspondence with the applicant, they have also stated that a search of existing structures suitable of accommodating the required telecommunications equipment have not identified any potentially suitable structures in this regard. Therefore, the development is considered to accord with the requirements of Paragraph 117(c) of the NPPF and Policy 27(b) of the CDP.

36. As such, it is considered by the applicant that the optimum solution from the perspective of cell planning and radio coverage has been put forward. The target search area and existing H3G (Three) UK sites are shown in Figure 4 of the SID, and this explains that the proposed installation must be located close to the area outlined therein. While there is no requirement for the applicant to provide an exhaustive list of new sites which have been considered, they have provided a list of 6 sites which were investigated but subsequently discounted. The reasons for those sites being discounted range from siting within a dense residential area or being located in close proximity to residential properties, to insufficient or unsuitable pavements, there being overhead cables above, or visibility splay issues.
37. It is noted that the proposed site is also located within a predominantly residential area and this was queried with the applicant who noted that the selected site, which is slightly outside of the cell search area and away from the nominal location, was chosen as it is considered less harmful than the sites to the north which are more densely populated by residential dwellings. The application site is considered to be more open with separation distances to residential properties slightly greater than other sites proposed. The footpath is also much wider in the location and will not therefore interfere with pedestrian movements.
38. Other potentially suitable sites have been put forward by those objecting to the current application, including a site adjacent to the A690, land adjacent to 93 Bradford Crescent and land to the east of Hornbeam Close. The applicant has confirmed that the A690 road is not suitable given it would not be possible to maintain the equipment safely once installed and with regards to the other sites, the applicant does not consider that these would be any less harmful in terms of impacts on outlook and amenity of neighbouring residents, and would be visible in more direct views from properties or appear more overbearing due to proximity to dwellings and private gardens and amenity spaces. The applicant has also noted that there is an existing mast (DUR018) which covers a separate area to the north-east (as shown in Figure 4 of the SID).

39. On that basis, it is considered that sufficient information has been submitted by the applicant to demonstrate that alternative sites have been considered and discounted for valid reasons. Therefore, the development is considered acceptable and that the evidence to support the application provided by the applicant, accords with the requirements of Paragraph 117 of the NPPF and Policy 27 of the CDP.

Siting and Appearance

40. Policy objectives within the NPPF are clear that sites for mast installation should be kept to a minimum consistent with efficient operation of the network and applications should be determined on planning grounds. On this basis, Part 12 of the NPPF requiring good design is applicable, whereby planning decisions should address the integration of new development into the natural and built environment (Paragraph 130).
41. As already discussed, Policy 27(a) of the CDP requires proposals to demonstrate that the scheme will not cause significant adverse impacts or that its benefits outweigh any adverse negative effects. Paragraph 5.272 of the supporting text of CDP Policy 27 advises that, in accordance with the NPPF, all new infrastructure installations should, where possible, minimise the number of masts and new sites required and be sympathetically designed and camouflaged where appropriate. Policy 29 requires development proposals to achieve well designed buildings and places and to create spaces that are adaptable to changing social, technological, economic and environmental conditions.
42. The proposed monopole, as amended, would have a height of 15 metres and be of a sleek design, finished in a visually recessive colour (RAL: 6009 Fir green). It would be sited at the back of a public footpath and adjacent to the front boundary with Kepier Community Clinic. The surrounding area is predominantly residential in character with the Community Clinic adjacent and Durham Gilesgate Primary School approximately 100m to the north. The properties in the immediate locality are generally a mix of single-storey and two-storey height.
43. Given the open and green character of the townscape and low built form in this part of Gilesgate, the development will be visible within the street scene and from multiple receptors including the well-used PROW (No. 3 Belmont), the school and Clinic. However, the monopole is of a slim and uncomplicated profile which will be viewed in the context of this urban setting and, although slightly taller, will not appear dissimilar to the existing lamp posts and telegraph poles. As such, it is not considered that the reduced 15 metre scheme will be as visually obtrusive or as dominant as the previous scheme and is not therefore considered to have any significant adverse impacts on the street scene or character and appearance of the surrounding area.
44. Policy 31 (Amenity and Pollution) of the CDP permits development where where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted.
45. It is acknowledged that concerns have been raised by objectors in relation to loss of outlook and amenity as a result of the proposed development. As already noted, the development will be visible within the street scene and from certain vantage points within the locality. The development will be sited to the front of the Clinic and will potentially be visible from neighbouring properties, in particular 1 and 2 Musgrave Gardens which are north facing and to the south-west of the development.

46. The equipment cabinets and base of the pole would be screened to a degree from the Clinic by the existing front boundary palisade fence and hedge, although it is acknowledged it will be visible above the boundary and when stood within the site to the front of the Clinic. The development may also be visible from 1-2 Musgrave Gardens; however, it is noted that it is not located directly to the north and there is a separation distance of approximately 25m. Generally, due to the orientation of properties within the vicinity of the application site, it is not considered that the development will feature in direct views from the front of properties and will generally be seen in the context of other lighting columns and telegraph poles in the area. As such, it is not considered that the development would result in any significant adverse impacts in terms of loss of outlook, overbearing or overshadowing impacts to a degree that would warrant refusal of the application in this instance.
47. Concern has been raised by residents that the health implications of equipment proposed is not fully understood, and that the application fails to adequately demonstrate that there would not be any adverse impact in this regard, particularly in relation to the elderly, very young children and vulnerable adults. Clearly those concerns raised are genuine. However, paragraph 118 of the NPPF goes on to advise that Local Planning Authorities must determine applications on planning grounds only. They should not seek to set health safeguards different from the International Commission guidelines for public exposure. This demonstrates the Government's view is that the planning system is not the place for determining health safeguards which are set elsewhere. In this instance the applicant has provided evidence to demonstrate that the monopole mast and associated equipment meets the ICNIRP guidelines for public exposure and as such is not considered to have any adverse impact upon human health. The Council's raises no objection to the application in this regard.
48. The development, as proposed, is considered to be the minimum required to bring the benefits of 5G to this area. Based on the above and the amended development, it is not considered that the proposals would have any significant adverse impacts on the character and appearance of the area or on residential amenity to a degree that would warrant refusal of the application in this instance and would in turn, provide some benefit in the roll out of 5G coverage within the locality. The development would therefore accord with Parts 10 and 12 of the NPPF and Policies 27, 29 and 31 of the CDP. As such, it is considered that prior approval of the LPA is required and should be granted in this instance.

CONCLUSION

49. In summary, the principle of the development is considered to fall within the provisions contained within Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and it is considered that sufficient evidence has been provided to satisfy the LPA that the use of existing sites has been explored and discounted, and that a new site is required as a consequence.
50. The proposal has been assessed in terms of its impact having regard to the siting and appearance of the development. It is considered that the amended proposals would not result in an unacceptable level of visual clutter and would not have a significant detrimental impact on the character and appearance of the area or residential amenity in accordance with Parts 10 and 12 of the Nationally Planning Policy Framework and Policies 27, 29 and 31 of the County Durham Plan.

51. Whilst concerns of the local ward members, parish council and nearby residents are noted, for the reasons detailed in this report it is not considered that the issues raised are capable of sustaining refusal of prior approval as sought, taking into account the provisions of Part 16 of the GPDO.
52. On that basis, it is considered that the prior approval of the LPA is required in relation to the above matters, however, is considered acceptable and should therefore be granted to allow a condition to be attached to ensure the development is completed in accordance with the approved submitted plans.

Public Sector Equality Duty

53. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That Prior Approval is required for siting and appearance of the development and granted subject to the following conditions:

1. Development under Part 16, Class A, must begin not later than the expiration of 5 years beginning with the date on which the approval was given.

Reason: Required to be imposed pursuant to Part 16, Class A, A.3(11) of the Town and Country Planning General Permitted Development Order 2015 (as amended)

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 27, 29 and 31 of the County Durham Plan and Parts 10 and 12 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Submitted application form, plans and supporting documents

Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

The Town and Country Planning (General Permitted Development) (England) Order 2015
(as amended)



<p>Planning Services</p>	<p>DM/22/03636/PNT: Prior notification for installation of 15m Phase 9 monopole together with wraparound cabinet at base, 3no. ancillary equipment cabinets, and associated ancillary works.</p>	
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