

1. Application Details

Reference:	WP/20/00417/TEL
Site Location:	Telecommunications Mast Site, Weymouth Way, Radipole, Weymouth.
Proposal:	Installation of 18m high monopole supporting 6no. antennas & 3no. equipment cabinets & ancillary development.
Applicant:	MBNL for and on behalf of Hutchinson 3G UK Ltd.
Case Officer:	Huw Williams
Ward Member(s):	Cllr Peter Barrow Cllr David Grey
Publicity:	Advertised by public notices displayed on highway verge near to the application site on 15 July 2015 and 27 August 2020.

Determination Due By: 10 October 2020

Further information about the application may be inspected online through the application webpages accessible via: <https://planning.dorset.gov.uk/public-access/>.

Taking account of representations made during the course of the application, the Head of Service considers that under the provisions of Dorset Council's constitution this application should be determined by the Area Planning Committee.

2. Recommendation

- 2.1 The applicant be informed that Dorset Council's prior approval as the local planning authority is not required.

3. Reason for Recommendation

- 3.1 Having regard to policy:
- (i) COM10 (The Provision of Utilities Service Infrastructure);
 - (ii) ENV1 (Landscape, Seascape and Sites of Geological Interest);
 - (iii) ENV2 (Wildlife and Habitats);
 - (iv) ENV5 (Flood Risk);
 - (v) Policy ENV10 (The Landscape and Townscape Setting); and
 - (vi) ENV16 (Amenity),
- of the adopted West Dorset, Weymouth and Portland Local Plan 2015 and other material considerations including national planning policy and planning practice guidance, the proposed development is considered to be in general accordance with the development plan in force in the area. Details of the siting and appearance of the proposed development have been set out within the application and would be subject to conditions set out in Class A of Part 16 of the Schedule to the Town and

Country Planning (General Permitted Development) Order 2015 (as amended). The development would not be unduly detrimental to the appearance of the locality and the applicant has demonstrated that there is a need for the technology and that all technically feasible alternatives have been explored and that the application proposal results in the least visual harm. The application is therefore in accordance with policy COM10 of the Local Plan. The proposed development further accords with national planning policy for high quality communications set out in paragraphs 112 to 116 of the National Planning Policy Framework (February 2019). Various concerns have been expressed in representations made about the application regarding the siting and appearance of the proposed apparatus and other matters. However, having considered the impact of the development, the rights of the applicant, the general interest and the public sector equalities duty, the opinion is that the proposed development as described in the application has been adequately justified and is satisfactory and that any effect on human rights, on protected characteristics and on the character, appearance and amenities of the locality do not outweigh the authorisation and permitting of the subject development in accordance with adopted and prescribed planning principles.

4. Summary of Main Issues Addressed in Report

- 4.1 The table summarises conclusions reached on the main issues addressed in the appraisal set out in section 11 of this report.

Issue:	Conclusion:
Adequacy of justification for and of the other background information provided in support of the proposed development.	Principle of development is not material to determination. Satisfied that adequate information provided in accordance with development plan, national planning policy and best practice guidance and proposed development is justified.
Impact on character and appearance of application site and surrounding area.	The development as proposed would not be unduly detrimental to either the character, the appearance or the amenities of the locality.
Alternatives that would meet development need with less visual and/or environmental harm.	Proposal is in accordance with policy COM10 of the Adopted Local Plan and may be regarded as the option resulting in least visual and environmental harm.

5. Background

- 5.1 MBNL for and on behalf of Hutchinson 3G UK Ltd (the applicant) applied to Dorset Council for a determination as to whether the prior approval of the council as the local planning authority would be required as to the siting and appearance of proposed development involving:
- (i) the installation of electronic communications apparatus; and

(ii) development ancillary to radio equipment housing.

- 5.2 The application is made pursuant to Class A (electronic communications code operators) of Part 16 (Communications) of Schedule 2 (Permitted development rights) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The Order (as amended) is hereafter referred to as the GPDO.
- 5.3 Subject to exceptions, limitations and conditions, Class A of Part 16 defines as permitted development various developments by or on behalf of electronic communications code operators in, on, over or under land controlled by the operator for the purpose of the operator's electronic communications network or which is otherwise in accordance with the electronic communications code. This includes provision for the installation, alteration or replacement of electronic communications apparatus and development ancillary to radio housing equipment.
- 5.4 Applications made under Class A of Part 16 of the GPDO are not applications for planning permission, development described within the class being, subject to limitations and conditions, 'permitted development'. Accordingly, subject to compliance with the relevant limitations and conditions, the subject development benefits from planning permission granted by the GPDO and may then be undertaken as such.
- 5.5 Under the provisions of Class 16, for some types of development and in some locations, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development. In this instance, application for such a determination is necessary because the proposed development involves the installation of a mast (the proposed monopole).
- 5.6 Amongst other details, applications under Class A of Part 16 must be accompanied by:
- (i) a written description of the proposed development and a plan indicating its proposed location; and
 - (ii) evidence that the developer has given notice of the proposed development to any person (other than the developer) who is an owner or agricultural tenant of the land to which the development relates.
- 5.7 As a means of expediting the determination process, along with the mandated information, applicants frequently provide additional information including supplementary background documents and plans and drawings giving such further details of siting and appearance as might otherwise be required for subsequent consideration.
- 5.8 In this instance, in addition to the requisite application form, notice and location plan, the application includes:
- (i) plans and drawings providing details of the proposed siting and appearance of the proposed apparatus and radio equipment housing;
 - (ii) a site specific Supplementary Information form based on the Supplementary Information Template set out in Appendix D of the Code of Best Practice on Mobile Phone Network Development in England;

- (iii) pre-application consultation letters sent to the Planning Service, local ward members and Mr Richard Drax MP;
- (iv) background documents comprising:
 - the Institute of Engineering and Technology publication entitled 'Allaying health concerns regarding 5G and exposure to radio waves'
 - an extract from the Local Government Association September 2019 guidance publication entitled 'A councillor's guide to digital connectivity'; and
 - a letter dated November 2019 to Local Authority Chief Executives from Matt Warman MP Parliamentary Under Secretary of State for Digital Broadband regarding '5G – The Next Mobile Generation';
- (v) a Supplementary Information Document dated 21.06.19 prepared by the applicant addressing '5G and Future Technology – Delivering the UK's Telecoms Future' and subtitled 'Streetworks Monopoles in support of 5G'; and
- (vi) a Declaration of Conformity with ICNIRP Public Exposure Guidelines dated 2020-06-15.

5.9 The submitted application form describes the proposed telecommunications apparatus as 'monopole and equipment cabinets to be installed' and further describes the proposed development as:

"The installation of a new 18 metre high monopole supporting 6 no antennas with a wrap around equipment cabinet at the base of the column, the installation of 3 no. new equipment cabinets and ancillary development thereto."

- 5.10 Initial determination options for applications under Class A of Part 16 are:
- (i) that prior approval of siting and appearance is not required (in which case the proposed development may then be undertaken as permitted development);
or
 - (ii) that prior approval of siting and/or appearance is required.

5.11 Written notice of the Council's determination and any subsequent approval or refusal must be provided within a prescribed time period or within such longer periods as may be agreed by the applicant and authority in writing or else the development may then commence as permitted development. In consequence, where prior approval is required, this may be a matter for immediate or subsequent consideration. It is, however, important to note that conditions are applied to any development undertaken as permitted development under the Class 16. Of particular note, condition A.2(9) of Class A of Part 16 of the GPDO provides that:

"The development must, except to the extent that the local planning authority otherwise agree in writing, be carried out–

- (a) where prior approval has been given ... in accordance with the details approved;
- (b) in any other case, in accordance with the details submitted with the application."

and condition A.2(2) of Class A of Part 16 provides that:

"Class A development is permitted subject to the condition that–

- (a) any electronic communications apparatus provided in accordance with that permission is removed from the land or building on which it is situated–
 - (i) if such development was carried out in an emergency, at the expiry of the relevant period; or
 - (ii) in any other case, as soon as reasonably practicable after it is no longer required for electronic communications purposes; and
- (b) such land or buildings is restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer.

5.12 Accordingly, where submitted details are considered to be adequate or satisfactory, it is not necessary for a local planning authority to require the prior approval of the siting and/or appearance of the development in order to establish control over these matters, nor is it normally necessary to impose conditions relating to the removal of surplus apparatus and/or radio equipment housing or subsequent restoration of the site.

5.13 In the determination of an application under Part 16 of the GPDO, account must be taken of any representations made about the application. It may also be appropriate to have regard to the development plan and other material considerations.

5.14 Further information about the application site context and the proposed development are set out in sections 6 and 7 of this report and further details of the regulatory and policy framework within which the application falls to be determined are set out in section 8. Consultee responses are then summarised in section 9 and other representations made about the application are summarised in section 10. The main issues in the determination of the application and other matters raised in the representations received are addressed in the appraisal presented in section 11.

6. The Application Site and Surrounding Area

6.1 The application relates to land to the north of the Manor Roundabout road junction which connects the A354 (the Weymouth Relief Road) and the B3159 (Dorchester Road).

6.2 Two monopole telecommunications masts are currently present in this location, one being approximately 12 metres tall and the other being approximately 15 metres tall.

6.3 The masts are positioned within a relatively wide area of highway verge, the Manor Roundabout and the A354 being to the south and a residential street off Dorchester Road (Greenway Road) to the north.

6.4 The highway verge rises to the north and is backed by a belt of mature trees, beyond which is public bridleway (Route S1/30) which serves as part of the National Cycleway (Route 26), links to Littlemoor and provides access to the Lorton Meadows Nature Reserve.

6.5 Greenway Road is a residential street, the nearest houses being approximately 30 metres from the application area.

- 6.6 South of the roundabout is the Morrisons supermarket, opposite which are further residential properties. Around the roundabout and along the connecting roads and public bridleway are other vertically engineered structures including lighting columns and highway signage.
- 6.7 The application area lies with the development boundary for Weymouth as defined in the Adopted Local Plan where in Policy SUS2 provides that residential, employment and other development to meet the needs of the local area will normally be permitted. The area is regarded as being at low risk of fluvial and surface water flooding.
- 6.8 No part of the application site or any immediately adjoining areas are designated for their nature conservation importance and there are no designated heritage assets within or in the immediate vicinity of the application site.
- 6.9 The nearest designated heritage asset is the Radipole Conservation Area, the nearest boundary of which is located approximately 200 metres from the application area, the nearest listed buildings being more than 500 metres from the application area.
- 6.10 The Radipole Community Woodland Local Nature Reserve is located approximately 220 metres to the south west of the application area and the Lorton Site of Special Scientific Interest (SSSI) approximately 250 metres to the north east.
- 6.11 The main entrance to Radipole Primary School is located approximately 250 metres to the east of the application area and the Redlands Community Sports Hub approximately 500 metres to the north. The Wey Valley School, Wyvern Academy and St Nicholas and St Laurence Primary School are located further to the north.

7. Proposed Development

- 7.1 The proposal provides for the upgrading (by replacement) of the lower of the two existing monopoles with a higher (18 metre tall) monopole mast to be positioned approximately 17 metres west of the existing mast to be replaced.
- 7.2 A 'wrap around' cabinet would be provided at the base of the mast, the additional cabinets being located to the north and west. The cabinets would be painted green and the replacement mast would be painted grey.
- 7.3 The new monopole is proposed to support upgraded 2G, 3G and 4G antennas and to additionally support 5G antennas. As with the existing mast to be replaced, the new monopole would be used by Hutchinson 3G UK Ltd (3) and EE. The other existing mast is used by another network operator and would be retained for their use.
- 7.4 To avoid any unnecessary break in coverage, the Supplementary Information submitted in support of the application makes clear that the existing monopole to be replaced would be retained for a period following the construction of the proposed mast but would later be removed.
- 7.5 Improvement of the existing signals and the introduction of 5G services means that the new mast needs to be taller than that which it is intended to replace.

7.6 To accommodate the 5G antennas and the associated feeder cables, the monopole also needs to be slightly wider than the existing mast and, unlike the existing structure, the antennas would not be fully enclosed within a fibre glass shroud. However, the application explains that the proposed design is the slimmest possible to enable all technologies to be supported from this site and that if the column and shroud width were any slimmer another radio base station would be required.

7.7 The application further notes that:

“The design of the column is a simple, functional, vertical structure which will not appear incongruous within the streetscene, which is characterised by similar linear structures. The column will be coloured grey but can be coloured any other colour the LPA consider appropriate.

The cabinets are designed to appear like other statutory undertakers equipment cabinets, including the immediate streetscene. The proposed equipment cabinets are small for telecommunications apparatus and proposed to be coloured green to blend in with other similar statutory undertakers equipment cabinets often found in urban areas. The equipment cabinets can be installed under the operators permitted development rights, but have been included on the plans and in the description in order to remain fully transparent.”

8. Regulatory and Policy Context

8.1 Section 38(5) of the Planning and Compulsory Purchase Act 2004 (as amended) provides that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

8.2 For the subject application, the development plan includes the adopted West Dorset, Weymouth and Portland Local Plan 2015.

8.3 The term material considerations is wide ranging but in this instance includes:

- (i) national planning policy;
- (ii) national planning practice guidance and also sector specific practice guidance including that provided in the Code of Best Practice on Mobile Network Development in England; and
- (iii) other statutory provisions outlined below.

8.4 There is no adopted or post-examination draft neighbourhood development plan that is material to the determination of the subject application.

Adopted West Dorset, Weymouth and Portland Local Plan 2015

8.5 The adopted West Dorset, Weymouth and Portland Local Plan 2015 (hereafter referred to as the Adopted Local Plan) provides a basis for planning decisions in the former district of West Dorset for the period to 2031. The plan sets out a vision for West Dorset in 2031 and a number of strategic objectives which provide a concise expression of the priorities of the plan. Pertinent strategic objectives include:

- Support the local economy to provide opportunities for high quality, better paid jobs;
- Support sustainable, safe and healthy communities with accessibility to a range of services and facilities;
- Protect and enhance the outstanding natural and built environment, including its landscape, biodiversity and geodiversity, and the local distinctiveness of places with the area – this will be the over-riding objective in those areas of the plan which are particularly sensitive to change;
- Reduce vulnerability to the impacts of climate change, both by minimising the potential impacts and adapting to those that are inevitable – this will be the over-riding objective in those areas of the plan which are at highest risk;
- Provide greater opportunities to reduce car use; improve safety; ensure convenient and appropriate public transport services; and seek greater network efficiency for pedestrians, cyclists and equestrians; and
- Achieve high quality and sustainable in design, reflecting local character and distinctiveness of the area.

8.6 For each of the above themes, more detailed policies to be applied to specific issues or types of development are provided. The following policies are particularly relevant to the determination of the subject application:

- COM10 – The Provision of Utilities Service Infrastructure;
- ENV1 – Landscape, Seascape and Sites of Geological Interest;
- ENV2 – Wildlife and Habitats;
- ENV5 – Flood Risk;
- Policy ENV10 – The Landscape and Townscape Setting; and
- ENV16 – Amenity.

8.7 Specifically in relation to telecommunications and radio masts, paragraph 6.6.2 of the Adopted Local Plan notes that modern telecommunications are an essential and beneficial element in the life of the local community and the national economy. It is further noted that new technology has spread rapidly to meet the growing demand for better communications at work and at home. Paragraph 6.6.3 then notes that public interest and anxiety over telecommunications has made it a contentious planning issue and that operators of communication technology have a duty to abide by codes and regulations in terms of public health. It is further stated that where telecommunications development is proposed, the following information will normally be sought:

- a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission on Non-Ionizing Radiation Protection guidelines;
- the outcome of any 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.

8.8 As noted above, the application includes a Declaration of Conformity with ICNIRP Public Exposure Guidelines and a site specific Supplementary Information form. Amongst other matters, the Supplementary Information form provides details of pre-application consultation letters sent to local ward councillors and the local member of parliament. No schools or other local organisations were consulted at the pre-application stage.

- 8.9 Policy COM10 of the Adopted Local Plan provides that proposals for the development of telecommunications or radio equipment will be permitted provided that:
- the development will not be unduly detrimental to the appearance of the locality, particularly in sensitive areas of landscape, nature conservation or townscape importance; and
 - the applicant has demonstrated that there is a need for the technology and that all technically feasible alternatives have been explored and that the application proposal results in the least visual harm.
- 8.10 The above matters are key considerations in the determination of the subject application and are considered further along with other development plan policies in the appraisal presented in section 11 of this report.

National Planning Policy and Guidance

- 8.11 Issued in February 2019 and subsequently modified in June 2019, the National Planning Policy Framework (the NPPF) sets out Government planning policies for England and how these are expected to be applied.
- 8.12 The NPPF is clear that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 9) and that achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental - which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across each of the different objectives (paragraph 8).
- 8.13 In full, the overarching objectives of the planning system are as follows:
- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 8.14 Paragraph 9 of the NPPF makes clear that the overarching objectives are not criteria against which every planning decision can or should be judged, noting that decisions should play an active role in guiding development towards sustainable solutions but,

that in doing so, should take local circumstances into account so as to reflect the character, needs and opportunities of each area.

- 8.15 So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (NPPF paragraph 10), which, for decision taking, amongst other matters and subject to exception, means approving development proposals that accord with an up-to-date development plan without delay (NPPF paragraph 11).
- 8.16 Decision making is further addressed in part 4 of the NPPF. Paragraph 38 of the NPPF indicates that local planning authorities should approach decisions on proposed development in a positive and creative way, using the full range of planning tools available and working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It is further stated that decision-makers at every level should seek to approve applications for sustainable development where possible.
- 8.17 Paragraph 54 of the NPPF provides that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations but notes that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 55 of the NPPF provides that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It is further stated that agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making and that conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.
- 8.18 Paragraph 56 of the NPPF provides that planning obligations must only be sought where:
- (iv) necessary to make the development acceptable in planning terms;
 - (v) directly related to the development; and
 - (vi) fairly and reasonably related in scale and kind to the development.
- 8.19 Paragraphs 112-116 of the NPPF set out detailed and particularly pertinent policy on supporting high quality communications, paragraph 112 noting 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) and full fibre broadband connections.
- 8.20 Paragraph 113 of the NPPF 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. It is further stated that use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged and that where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

- 8.21 Paragraph 114 of the NPPF provides that local planning authorities should ensure that:
- a) they have evidence to demonstrate that electronic communications infrastructure is not expected to cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and
 - b) they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
- 8.22 The subject application explains that the proposed new mast has been sited and designed in order to provide 5G coverage and to support the existing mobile network. It is further explained that:
- (i) as the new pole will be complimentary to the existing 2G/3G/4G mast it must be immediately adjacent to the existing pole in order to replicate the existing coverage;
 - (ii) there are no more favourable greenfield locations immediately adjacent to the site; and
 - (iii) there are no existing suitable rooftop sites in the search area.
- 8.23 It is further noted that the application area is not within 3km of any aerodromes that the telecommunications infrastructure subject of the application accords with all relevant legislation and that, as such, will not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest.
- 8.24 Paragraph 115 of the NPPF provides 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 and that 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.
- 8.25 The outcome of pre-application consultations are reported in the submitted application and confirmation has been provided that the proposed equipment and installation complies with ICNIRP guidelines and a Certificate of Compliance has been submitted in support of the application.
- 8.26 Paragraph 116 of the NPPF states 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.”

National Planning Practice Guidance (PPG)

8.27 The Government’s online Planning Practice Guidance provides some advice on prior approval processes and procedures including the following:

“Prior approval means that a developer has to seek approval from the local planning authority that specified elements of the development are acceptable before work can proceed. The matters for prior approval vary depending on the type of development and these are set out in full in the relevant Parts in Schedule 2 to the General Permitted Development Order. A local planning authority cannot consider any other matters when determining a prior approval application.”

(Reference ID: 13-026-20140306)

“The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.”

(Reference ID: 13-028-20140306)

Code of Best Practice on Mobile Network Development in England, November 2016

8.28 First published in 2003 and updated several times since, the Code of Best Practice on Mobile Network Development in England provides guidance to Mobile Network Operators, planning authorities, community groups and others with an interest in mobile connectivity.

8.29 Developed by a Working Group comprising various Government departments, industry representatives, Historic England, the Local Government Association, the Planning Officers Society and others, the principal aim of the Code is to ensure that the Government’s objective of supporting high quality communications infrastructure is met (paragraph 1.3). Through commitment expressed to and/or within the Code, the Code also plays an important role in promoting engagement with local communities and other interested parties. Amongst other matters, the Code of Best Practice:

- sets out siting and appearance principles (Appendix A);
- provides advice on constructive working and consultation and engagement;
- provides guidance on planning application procedures; and
- includes templates for providing supplementary information to accompany planning applications and for declaring conformity with International

Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines
(Appendix D).

EIA Regulations

- 8.30 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), hereafter referred to as 'the EIA Regulations', apply the amended EU directive "on the assessment of the effects of certain public and private projects on the environment" (usually referred to as the 'Environmental Impact Assessment Directive') to the planning system in England.
- 8.31 Environmental impact assessment (EIA) is a process of evaluating the main likely environmental impacts of a proposed project or development and which involves the preparation of an environmental statement, its publication and consideration.
- 8.32 The EIA Regulations only apply to certain types of development and EIA is not always required for all such development. However, regulation 3 of the EIA Regulations provides that the relevant planning authority, the Secretary of State or an inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of the development.
- 8.33 The subject development is not of a type mentioned in either Schedule 1 or in column 1 of the table in Schedule 2 of the EIA Regulations, and therefore does not constitute EIA development. Neither screening for the possible need for EIA nor the conduct of EIA pursuant to the EIA Regulations is therefore necessary.

Equalities

- 8.34 Section 149 of the Equalities Act 2010 (as amended) provides that in the exercise of its functions a public authority must have due regard to the need to:
- (i) eliminate discrimination, victimisation and any other conduct that is prohibited by or under the Act;
 - (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 it.
- 8.35 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.36 The design and management of the built environment can create and/or reinforce bias and disadvantage. However, in this instance, it is not considered that the subject development does not have any material implications pursuant to the public sector equalities duty.

Human Rights Act 1998 and the European Convention of Human Rights

- 8.37 The Human Rights Act 1998 imposes an obligation on public authorities not to act incompatibly with the European Convention on Human Rights, such that persons directly affected by the adverse effects of decisions of public authorities may be able to claim a breach of their human rights.

- 8.38 The articles/protocols of particular relevance are:
- (i) Article 6 - Right to a fair and public hearing;
 - (ii) Article 8 - Right to respect for private and family life; and
 - (iii) The First Protocol, Article 1 - Protection of Property.
- 8.39 These are qualified rights, which means that interference with them may be justified if deemed necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 8.40 Article 1 of Protocol 1 provides that a person is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest.
- 8.41 The term “possessions” may include material possessions, such as property, and also planning permissions and possibly other rights. Any interference with a Convention right must be proportionate to the intended objective. This means that such an interference should be carefully designed to meet the objective in question and not be arbitrary, unfair or overly severe.
- 8.42 European case law suggests that interference with the human rights described above will only be considered to engage those Articles and thereby cause a breach of human rights where that interference is significant.
- 8.43 I am satisfied that:
- (i) the application has been subject to adequate public consultation;
 - (ii) prior to the determination of the application, the public will have had an adequate opportunity to make representations in the normal ways; and
 - (iii) that the representations received to date are adequately addressed in this report.
- 8.44 I am further satisfied that the proposed development:
- (i) would not impact on the right to live one’s personal life without unjustified interference such that Article 8 would be engaged; and
 - (ii) would not unreasonably deprive any person of their right to either their peaceful enjoyment of their possessions or of their possessions.

9. Consultee Response

9.1 A summary of representations received about the application from internal and external consultees is set out below.

9.2 Dorset Council Ward Members

No response received.

9.3 Weymouth Town Council

No objection.

Application to be considered again by Town Council's Planning and Licensing Committee on Tuesday 6th October 2020.

9.4 **Dorset Council Highway Liaison Engineer**

No response received.

10. **Other Representations Received**

- 10.1 The application was publicised by means of a site notice and 30 other representations have been received - 4 in support of the application and 26 objecting.
- 10.2 Consideration of representations received led to the realisation that not all of the application documents had been made available for public inspections online. Further representations have therefore been invited and any additional representations received will be reported at Committee.
- 10.3 The representations received in support of the application variously note that:
- (1) They are very pleased to see the 21st century coming to Weymouth.
 - (2) Weymouth sorely needs investment.
 - (3) 5G will bring a big step forward.
 - (4) Content that technology is safe;
 - (5) They would pick a 5G town over a non-5G town if booking a holiday or picking a place to work.
 - (6) This is a good site.
- 10.4 The representations objecting to the application raise a range of issues relating to the siting and appearance of the proposed development and expressing concerns regarding the adequacy of the information submitted in support of the application, health and safety concerns, and environmental impact. In summary, the representations variously comment that:
- (1) Whilst many people welcome faster connections speeds for home and business use, there are many parents, residents and schools waking up to the potential dangers of mobile phone masts and monopoles.
 - (2) Most people want speedy, reliable connection. It does not need 5G to achieve this.
 - (3) Already a mast here and it is unsightly.
 - (4) Proposed mast would be an eyesore, 6 metres higher than existing mast and could appear unsettling to some residents causing anxiety and other mental health issues.
 - (5) Proposed mast would be an an unnatural and unsightly blight on the landscape and obscure the skyline.
 - (6) An 18 metre pole at this location would not be camouflaged and is not sympathetic to visual amenity of residential area.
 - (7) Proposed monopole would be visible from some distance, specifically from many residential properties in Greenway Road area of Redlands, Manor Road and along Dorchester Road.
 - (8) Application appears flawed - several required documents are missing and plan is confusing.
 - (9) Application documents are not available for viewing.

- (10) Lack of Health & Safety certificate and omission of technical details such as frequency, power output and exclusion zones which are required to accompany the ICNIRP certificate.
- (11) ICNIRP certificate is bogus as merely a self-certification, not endorsed by ICNIRP.
- (12) No evidence provided regarding potential for interference to instrumentation and air traffic services.
- (13) No information provided on how mast might interact with other masts and antennae.
- (14) No evaluation of health effects nor of effects of wildlife & the environment has been undertaken. There is NO research showing safety neither from 5g alone, nor 5g plus existing radiation from GSM 4g,3g Wi-Fi etc. Applicant needs to provide reports on operation and safety of 5G beam-formed transmission. Without this technical file an ICNIRP Certificate is invalid.
- (15) Lack of transparency about who has been consulted.
- (16) Decision on application should be postponed until all required information has been provided.
- (17) Mast would be adjacent to the bridleway to Two-Mile Copse and close to 3 schools.
- (18) Up to 1,000 students would pass by twice a day walking or cycling
- (19) Local school and residents have not been consulted.
- (20) Failure to consult local schools as part of the legal process means the mast will be illegally erected.
- (21) Nobody wants to live so close to a mast.
- (22) Mast would be adjacent to a wildlife conservation area.
- (23) Lorton Meadows Nature Reserve is a Site of Nature Conservation Importance (SNCI) and a Site of Special Scientific Interest (SSSI). An Environmental Impact and Risk Assessment Report is required. This should include a pollinator survey, survey of bat roosts in area and a tree survey giving scientific and/or common name of each species, age of tree, height, branch spread, root protection area and future growth potential.
- (24) Full Environmental Impact Assessment report missing.
- (25) A Bio-Initiative Report detailing the effects of pulsed, data-modulated, radio-frequency electromagnetic microwave radiation (RF-EMR) on ecology, flora and fauna needs to be provided.
- (26) There is a large body of peer reviewed scientific evidence that electromagnetic radiation is detrimental to wildlife especially to bees and other pollinators. Based on this fact alone the monopole should not be installed.
- (27) No risk assessment on environmental impact/conservation provided.
- (28) Council has duty of care to carry out a risk assessment. 5G has not been proved safe.
- (29) 5G is harmful to human, animal and plant life - a fact known to the insurance industry who refuse to underwrite any harm caused.
Concerned about impact on children with epilepsy.
- (30) Mast has to adhere to the official guidelines of safe distance .
- (31) Not enough is known about health and environmental risks of this new technology, particularly biological effects on children and wildlife.
- (32) Transmitters will have to be installed throughout neighbourhood, expanding danger beyond just the mast on the roundabout.
- (33) Precautionary principle should be invoked and 5G masts refused.

- (34) NPPF is a directive, not legislation or law.
- (35) The Council has power to ban any erection they wish if it is deemed not in the interests of environment or public health.
- (36) 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.
- (37) Burden of proof is on the applicant to prove that we the 'consumers' want and need this mast in our area.
- (38) Councillors will be aware that an ancient Law resides over the Land giving us ALL the right to this protection and to keep our Freedom.
- (39) Applicant has no right to erect or even keep an existing mast near our schools and homes.
- (40) Applicant must prove that they have surveyed the area for use of existing masts, buildings and other structures for new electronic communications capability (including wireless). No submission is made to this effect. Impossible to properly evaluate whether the boundary fence is adequate without required technical information.
- (41) National Institutes of Health (NIH) conclude that the spread of radiofrequency electromagnetic fields (RD-EMF) is rising and health effects are still under investigation. RF-EMF Promote Oxidative stress, a condition involved in most cancer onset, in several acute & chronic diseases & in vascular homestatis.
- (42) The WHO IARC classified RF EMF as a possible carcinogenic to humans in 2011.
- (43) The International Scientists Appeal representing 248 scientists from 42 Nations have submitted an appeal requesting UNEP reassess the potential biological impacts to plants , animals & humans, with 250,000 signatures around the world.
- (44) Childhood (and other) cancer clusters have been found after only one year of base stations being in operation, in the widely publicized cluster in Valladolid Spain, where 10 children in the vicinity of the antennae developed different cancers within a year.

11. Case Officer's Appraisal

- 11.1 Having regard to the information submitted in support of the application, the provisions of the development plan and other material considerations including national planning policy and representations received, the main issues in the determination of the application relate to:
 - (i) the adequacy of the justification for and of the other background information provided in support of the proposed development;
 - (ii) the impact of the proposed development on the character and appearance of the application site and surrounding area; and
 - (iii) whether there are any technically feasible alternatives that would meet the development need with less visual and/or environmental harm.
- 11.2 Being an application for determination as to whether the prior approval of the local planning authority will be required as to the siting and appearance of development that is proposed to be undertaken as permitted development the acceptability in principle of the proposed development is not a matter for consideration, but the

justification for the proposal and the potential for meeting the development need with less environmental harm may be considered.

- 11.3 The application is not supported by network coverage plots but explains the purpose of the proposal indicating that consideration has been given to alternative locations for the siting of antennas including placement on other structures in the locality, but that the potential for such alternatives is severely constrained by the need for the proposed development to integrate with the already established communications networks.
- 11.4 It is further explained that the proposed introduction of 5G services necessitates the higher siting of antennas so as to achieve vertical separation from other service antennas but also to achieve effective service coverage. Accordingly, it is understood that the introduction of a new mast solely for the purpose proving 5G coverage would not reduce the operational height requirement and would additionally lead to the further proliferation of masts in the local area contrary to national planning policy.
- 11.5 Paragraph 124 of the NPPF is clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 of the NPPF provides that that planning decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; be visually attractive and sympathetic to local character; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 11.6 Policy ENV1 of the adopted Local Plan provides that development should be located and designed so that it does not detract from and, where reasonable, enhances the local landscape character. The policy further states that development that significantly adversely affects the character or visual quality of the local landscape will not be permitted and that appropriate measures will be required to moderate the adverse effects of development on the landscape.
- 11.7 Policy ENV10 of the Adopted Local Plan provides that all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness and that development should be informed by the character of the site and its surroundings. The policy further provides that development will provide for the future retention and protection of trees and other features that contribute to an area's distinctive character and that development should only be permitted where it provides sufficient hard and soft landscaping to successfully integrate with the character of the site and its surrounding area.
- 11.8 Policy ENV16 of the Adopted Local Plan provides that proposals for development should be designed to minimize their impact on the amenity and quiet enjoyment of residents close to it. As such, amongst other matters, the policy further states that development proposals will only be permitted provided they do not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy or on the amenity of the occupiers of properties through inadequate

daylight or excessive overshadowing, overbearing impact or flicker; they do not generate a level of activity or noise that will detract significantly from the character and amenity of the area or the quiet enjoyment of residential properties; and they do not generate unacceptable pollution, vibration or detrimental emissions unless it can be demonstrated that the effects on amenity and living conditions, health and the natural environment can be mitigated to the appropriate standard.

- 11.9 Being both taller and wider than the existing monopoles, the proposed 18 metre mast would be more apparent than the existing telecommunications infrastructure in this location, but monopole designs are regularly used in sensitive landscape areas and tend to assimilate well with other vertically engineered structures and within locations that benefit from vegetation screening, both being present in the vicinity of the application area. Monopole masts are already present in the immediate vicinity of the application area and have previously been considered to be both appropriate and acceptable in the local landscape setting.
- 11.10 At 18 metres tall, the proposed mast would be several metres higher than the adjacent trees, but the trees would help to filter or screen local views from the north and east and also help assimilate the mast into the more open public views from the south and west. When visible against the sky in the UK, grey painted masts are generally considered to be less noticeable than darker painted structures.
- 11.11 Additional landscaping could potentially help to further assimilate the proposed mast into its setting but it is not considered that the development as proposed would be unduly detrimental to either the character, the appearance or the amenities of the locality.
- 11.12 Having regard to the information presented in support of the application, I am satisfied that the applicant has demonstrated a need for the proposed technology and that all technically feasible alternatives have been adequately explored and that the application proposal may be regarded as the option resulting in least visual and environmental harm. Accordingly, I am satisfied that the proposal is in accordance with policy COM10 of the Adopted Local Plan.
- 11.13 Confirmation has been provided that the proposed equipment and installation would comply with ICNIRP guidelines and that the subject equipment accords with all relevant legislation such that it will not cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest.
- 11.14 Overall, I am therefore satisfied that adequate information has been provided in accordance with both the development plan and national planning policy to justify the proposed development, its siting and its appearance.
- 11.15 It is recognised that the introduction of 5G technologies is a controversial topic with many campaigners arguing that the technology is unproven and potentially hazardous. However, Government planning policy is clear that local planning authorities must determine applications for communications development on planning grounds only and that they should not set health safeguards different from the International Commission guidelines for public exposure.

- 11.16 The matters on which a local planning authority may seek to regulate development under Class A of Part 16 of the GPDO are further prescribed by the legislation to the approval of the siting and appearance of such development. In this regard, it is not apparent that alternative means of meeting the development need would have either less visual or environmental harm.
- 11.17 Respondents to the application have advocated the application of the precautionary principle under which decision-makers may adopt precautionary measures when scientific evidence about environmental or human health hazards is uncertain and the stakes are high.
- 11.18 However, environmental and health considerations relating to this type of development have been considered by the Government in developing permitted development rights.
- 11.19 Conditions imposed by the GPDO provide that:
- (i) the development must be carried out in accordance with the submitted details unless otherwise agreed in writing by the local planning authority;
 - (ii) require the removal of apparatus which is no longer required for electronic communications purposes; and
 - (iii) make provisions for site restoration.
- 11.20 On this basis, I am satisfied that the siting and appearance of the proposed development are in accordance national and local planning policy and am further satisfied that Dorset Council's prior approval as the local planning authority as to the siting and appearance of proposed development is not necessary and need not be required.