

APPLICATION REFERENCE: PL/2020/01408/PN**Site Address:** Radio Base Station, Conker Lane, Dorridge, Solihull

Proposal:	Prior notification for the installation of an 18 metre lattice mast with 6 No. antennas and 1 No. 600mm dish and 1 No. 300mm dish, 3 No. equipment cabinets and 1 No. meter cabinet enclosed in a secure compound measuring 5.2m x 8m.
Web link to Plans:	Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at: <u>https://publicaccess.solihull.gov.uk/online-applications/</u>

Reason for Referral to Planning Committee:	Volume of local opposition	
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Recommendation:	APPROVAL SUBJECT TO CONDITIONS
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EXECUTIVE SUMMARY

A determination as to whether or not the Prior Approval of the Local Authority is required has been submitted for a new electronic communications mast and associated equipment to be used by both Vodafone and Telefónica.

The proposed mast would be an 18 metre lattice mast with 6 No. antennas together with the installation of ground-based equipment cabinet and development ancillary thereto. It is considered that in this instance there is a demonstrable requirement for the proposed structure and, having regard to the operators' operational needs, there are not considered to be any more acceptable alternative locations for the mast or more sympathetic design solutions available. These factors are considered material to the extent that the degree of limited visual harm created by the proposal is outweighed for the reasons as set out in this report. The proposal is therefore recommended for approval.

BACKGROUND AND CONTEXT

Cornerstone Telecommunications Infrastructure Limited (CTIL) is a newly formed joint venture company owned equally by Vodafone and Telefónica. In this regard CTIL have been seeking to upgrade and improve the performance of existing base

stations wherever possible to accommodate for 4G capabilities. They have also continued to rollout new base stations where 3G and 4G coverage and capacity is either lacking or not available.

As part of this continued network improvement program, there is a specific technical requirement to provide 2G, 3G and 4G coverage and capacity for both Vodafone and Telefónica in this area of Dorridge.

The significant future benefits of improving the reliability of the existing 2G, 3G and 4G network, brings with it improvements to the general speed, capacity and technology available for general internet and electronic communication users, both home and work based. The recent social and working restrictions imposed on the nation by the Covid19 pandemic have highlighted just how important this improved connectivity capacity will be going forward, and demand for improved services will be huge.

In order to provide a better provision of 2G, 3G and 4G provision in the Coverage improvement Area for Dorridge, a new mast and related equipment are required that will potentially impact on the site location regarding the immediate public space recreational landscape where it is to be installed and neighbouring streetscenes further afield. The implications of this will be explored later in this report.

It is very important to note that mobiles can only work with a network of base stations in place where people want to use their phones (or other wireless devices). Without base stations, the technology everybody relies on simply won't work or will provide a substandard service. It is important to note that mobile services are playing an increasingly important role in our daily lives, in which many such devices are no longer regarded as a luxury item and more a fundamental necessity. This has created a growing expectation that mobile devices will work reliably wherever we are, whether at home, at work, in a car or out walking in the countryside.

In this regard the application proposal will play an important role in providing much needed connectivity to an area that lacks reliable coverage and capacity. In this regard every new or upgraded base station and the technologies they incorporate, all play a very important contribution to raising these coverage thresholds wherever the base station may be in the country.

With the above in mind the application must therefore be determined in accordance with the procedures as set out the Town and Country Planning (General Permitted Development) Order, which restricts the issues that can be considered to the siting and appearance of the mast only.

MAIN ISSUES

The main issues in this application are:

- Whether there is a technical requirement for the proposed mast;
- Whether a suitable assessment of the area has been undertaken to justify the siting of the proposal;

- Whether the proposal will be harmful to the character and appearance of the area;
- The impact of the proposal upon Public Open Space; and
- Whether any harm caused by the proposal is outweighed by the requirement for the mast, the lack of any more suitable alternatives and the attempts that have been made to lessen the visual impact of the proposal as far as is practicable.

Other Material Considerations:

- Health
- Residential Amenity
- Highway considerations

CONSULTATION RESPONSES

Statutory Consultees

The following Statutory Consultee responses have been received:

Network Rail – No Objection subject to conditions

Non Statutory Consultees

The following Non-Statutory Consultee responses have been received:

- SMBC Drainage – No objection
- SMBC Highways – No objection
- SMBC Landscape – No Objection

KDBH Forum – Objection detailing the applicant has failed to convince the forum that all options for an alternative location have been thoroughly and meaningfully investigated, with substantive evidence to this effect provided by the applicant. Consequently, it is not possible for the Forum to support an application that it believes will harm Local Green Space and public amenity.

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015.

19 responses were received 18 objecting to the proposal and 1 in support. One objection includes a formal response from the chair of the KDBH Neighbourhood Forum. All correspondence has been reviewed and the main issues raised are summarised below:

Regarding Support;

- Living In Dorridge just 100 metres from the proposed site a resident has had to purchase a signal router to obtain a satisfactory service due to poor signal strength and details they need 5G sooner rather than later.

Regarding Objection;

- Site inappropriate and will destroy Conker Lane with a monstrosity of a mast
- Unwelcome proposal on a protected Green space which is a highly valued by the local community;
- No special circumstances to justify the proposed site;
- Inadequate technical justification;
- Will only cover 800MHz frequency;
- Will require removal of trees and existing paths;
- Intrusion of vehicles of plant to install mast;
- No landscape mitigation measures, especially when leaves are off the trees in the winter;
- Intrusive views from within the main adjacent open space area not considered or illustrated in the application;
- Design, scale and appearance poor and will blight the area;
- Mast is 21 metres tall not 18 metres;
- Mast will be erected on Green Belt land which is inappropriate;
- Cabinets should be painted green;
- Vehicle access for erection and maintenance will damage the area as there is no access road;
- Dangers to health and mental wellbeing;
- Not appropriate location and other sites identified have not been analysed fully, such as site 5 (field off 4 Ashes Road) assessment which is contradictory and does not stand up to scrutiny and worthy of more serious consideration;
- Excessive size lattice frame design not appropriate and slim line pole better design;
- Will shadow closest residential windows;
- Alternative sites more appropriate;
- Harmful impact on wildlife including nesting birds, deer and pond life as site is a wetland prone to flooding and where there are ponds and ditches with great Crested Newts which have not been assessed in this application.

PRIOR APPROVAL APPLICATION PROCESS

The General Permitted Development Order 2015 “GPDO” (as amended) gives deemed planning permission for or on behalf of an electronic communications code operator for the installation, alteration, or replacement of any electronic communications apparatus. If the proposal falls outside the parameters of permitted development requiring GPDO Prior Approval, then a full planning application is needed. However this application is for permitted development subject to prior approval regarding matters of siting and appearance. It should be appreciated that this is a lighter-touch process that is much less prescriptive than those relating to a full planning application, as the principle of the development has already been

established. As prior approval is required the Local Planning Authority must assess the application based on the criteria as set out elsewhere in this report.

PLANNING ASSESSMENT

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that: -

‘Where in making any determination under the planning acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise’.

The National Planning Policy Framework at paragraph 2 states that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

This report considers the proposal against the Development Plan (Solihull Local Plan and Knowle, Dorridge and Bentley Heath Neighbour Plan (KDBNP)), the relevant policies of the National Planning Policy Framework (“NPPF”) 2019, the National Planning Practice Guidance

APPRAISAL

Whether there is a technical requirement for the proposed mast

The National Planning Policy Framework states that local planning authorities should not question the need for the telecommunications system, which the proposed development is to support.

The Government’s latest thinking strongly supports communications infrastructure. The NPPF is very supportive of high-quality communications. Indeed, a whole chapter is dedicated to high quality communications, emphasising the importance that the Government attaches to digital connectivity. Paragraph 112 states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. However, it also includes the importance of reliable communications infrastructure for both economic growth and social well-being.

The NPPF continues to support the expansion of electronic communications networks at paragraph 112. It notes that policies should set out how high-quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time.

With the above in mind, the Government is already forward thinking the evolution of data networks and seeks planning decisions to take account of this. Improving a deficient level of service of 2G, 3G and 4G technology in this area of Dorridge provides increased speed of data and more capacity in the network, to ensure that

handheld devices can continue to be used for the purposes in which they were purchased. This will bring even greater economic and social benefits to the area.

Paragraph 113 of the NPPF retains the requirement to minimise the number of installations consistent with the efficient operation of the network but also includes being consistent with the needs of consumers and providing reasonable capacity for future expansion.

Paragraph 116 of the NPPF relates to determining 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.

Section 13.2. and Policy U1: Mobile Phone and Broadband Infrastructure of the Knowle, Dorridge and Bentley Heath Neighbourhood Plan 2018-2033 Adopted 2019 (KDBH Neighbourhood Plan 2019) states;

'The provision of mobile phone masts and other telephony or communications transmission or receiving equipment will be permitted provided that, either alone or in combination, they are not materially harmful to the character or appearance of the area within which they are located. Measures that allow for the provision of a good mobile phone service to every new home or business from more than one provider will be supported provided that this does not lead to an unacceptable proliferation of equipment above ground. Through the provision of ducts and draw pits, allowance shall be made for the installation of fibre optic cables to every new home and business. Sharing of masts by different telecommunications providers will be encouraged.'

Section 13.2 of the KDBH Neighbourhood Plan 2019 goes on to say;

'Many residents in KDBH have recorded a poor mobile phone or broadband service. Good mobile telephony and fast broadband speeds are an essential aspect of modern living. They support working from home and make a vital contribution to the digital economy as well as reducing the need to travel. Measures that support improved provision will be encouraged and supported.'

Providers will be expected to share equipment, where practical, but new and replacement transmission or receiving equipment will be approved in the circumstances set out in the policy.'

Multiple equipment in any particular area should be avoided as should the provision of equipment where it would result in or compound an unacceptable clutter of street furniture.'

In Summary, the proposed mast is required to provide suitable coverage and hence acceptable levels of service to customers. To demonstrate this, the applicant has submitted coverage plots which demonstrate that within the vicinity of the site existing coverage levels from the surrounding network is currently lacking. The plots then go on to show how coverage from the proposed installation will remedy this situation and provide service to areas where this is currently none available. It is

therefore considered that there is a technical requirement for the proposed installation within the indicative search area for this cell. This is a material planning consideration and significant weight should be afforded to this in the overall balancing exercise.

Whether a suitable assessment of the area has been undertaken to justify the siting of the proposal

The applicant has submitted an indicative cell search area plan, which outlines the extent of the area within which a site is sought to meet the network coverage objectives of both operators.

In searching for a suitable site, the NPPF advises that for a new base station, the applicant should explore the possibility of erecting antennas on an existing building, mast or other tall structure ahead of selecting a site for a ground based installation.

In Phillips v First Secretary of State [2003] EWHC 2415 (Admin), the High Court held that the availability of alternative sites is a material consideration in determining applications for prior approval for electronic telecommunications installations such as this.

Within the search area, aside from the site the subject of this application, several possible alternative sites were considered but rejected. Objectors to the proposal have also suggested possible alternative sites. During the assessment process of this application these sites have also been considered by the applicants, but also rejected. The 18 alternative sites considered, together with the reasons for discounting the sites are as follows:

1/ Conker Lane Walk, bend of Manor Road
Nr Jct with Woodstock Crescent Dorridge Solihull B93 8TS

There is insufficient space available on this stretch of pavement as the siting and dimensions of a street works style base station would restrict pedestrian movements to unacceptably low levels.

2/ Chadsworth Avenue Dorridge Solihull B93 8TD

There is insufficient space available on this stretch of pavement as the siting and dimensions of a street works style base station would restrict pedestrian movements to unacceptably low levels. The site is also located in an area where it would not provide adequate coverage to the west coast main line.

3/ Land alongside Railway Line Dorridge Solihull B93 8TD

There is no safe way to access this area without a full closure of the railway line. Network Rail have also introduced a restriction on the frequencies / technologies the operators are able to deploy on installations on their land. The option was therefore rejected for the above reasons.

4/ Dorridge Methodist Church 103 Mill Lane Bentley Heath, Solihull B93 8NY

The church does not benefit from a tower and the building itself is too low to host a sensitively designed telecommunication installation, when taking into account the roof shape of the property, its overall building height and the immediate natural and built clutter. Also land around the church is limited. Therefore a rooftop proposal of significant height would be required to meet the operator's technical requirements, in which it is considered that should a rooftop proposal or greenfield in the grounds would be highly visible and out of keeping with the host building and surrounding uses.

5/ Field off Four Ashes Road Field off access track to 122 & 124 Four Ashes Road Dorridge Solihull B93 8NB

This location is too far removed from the search area to provide the required level of coverage and capacity in which it would impact upon the neighbouring base station sites in the wider network. Therefore, this site has to be discounted as it does not meet the operator's technical requirements.

6/ Allotments off Packwood Close Dorridge Solihull B93 8AR

This location is too far removed from the search area to provide the required level of coverage and capacity in which it would impact upon the neighbouring base station sites in the wider network. Therefore, this site has to be discounted as it does not meet the operator's technical requirements.

7/ Jct of Widney Rd / Slater Road Bentley Heath Solihull B93 9BW

This location is too far removed from the search area to provide the required level of coverage and capacity in which it would impact upon the neighbouring base station sites in the wider network. Therefore, this site has to be discounted as it does not meet the operator's technical requirements.

8/ Land alongside Dorridge Railway Station Station Approach Dorridge Solihull B93 8QH

GPDO Prior Approval (LPA Ref PL/2017/00265/PNTC) was granted on 27.03.2017 for a 20m shrouded monopole. Network Rail have introduced a restriction on the frequencies / technologies the operators are able to deploy on installations on their land. The option was therefore rejected for the above reasons.

9/ Mast to the rear of Fennis Close / Rosemount House Poplar Road Dorridge Solihull B93 8DH

The mast is not a shareable structure in its current form, in which significant redevelopment would be required to accommodate further operators. However the mast is now landlocked by surrounding properties meaning redevelopment would be severely restricted at a build stage.

10/ 1 Arden Building Station Road Dorridge Solihull West Midlands B93 8HH

The owner has previously accommodated another operator on the roof with exposed pole mounted antennas which has now been removed. The public realm and road layout has been remodelled with new hard landscaping, in which to reinstate telecoms on the roof would be visually prominent and impact on the setting of the adjacent conservation area.

11/ St Philip's Church Manor Road Dorridge Solihull B93 8DX

The church does not benefit from a tower and the building itself is too low to host a sensitively designed telecommunication installation, when taking into account the roof shape of the property, its overall building height and the immediate natural and built clutter. Also land around the church is limited. Therefore a rooftop proposal of significant height would be required to meet the operator's technical requirements, in which it is considered that should a rooftop proposal or greenfield in the grounds would be highly visible and out of keeping with the host building and surrounding uses.

12/ Sainsbury Petrol Station Grange Road Dorridge Solihull B93 8QR

Identifying a viable position is limited when taking into account existing onsite activities, vehicle movements and visibility splays, as well as the underground fuel tanks and services. There are a few car parking spaces to the rear but build and maintenance issues are foreseen

13/ Station Car Park off Grange Road Dorridge Solihull B93 8QR

Car Park owned by Solihull Council and operated by Chiltern Railways. Located to the southernmost part of the coverage back spot. An installation in this area will still leave a deficiency in the coverage to the north. Network Rail, who would be consulted by Chiltern Railways would also reject the proposal due to their frequency restrictions.

14/ Station Car Park Station Approach Dorridge Solihull West Midlands B93 8QH

Network Rail have introduced a restriction on the frequencies / technologies the operators are able to deploy on installations on their land. The option was therefore rejected by the radio planner.

15/ Corner of Station Road and Dorridge Road Dorridge Solihull B93 8HE

The corner pavement site is found within the Dorridge Station Approach Road Conservation Area, up against tall and mature trees and has overhead cables in the vicinity which would implicate on the feasible height and position of a streetworks style installation here. Nevertheless even if these issues could be overcome it is envisaged that on balance an installation in this location would be visually prominent.

16/ Land to the rear of 100-106 / Evangelical Free Church Widney Road Bentley Heath Solihull B93 9BN

This location is too far removed from the search area to provide the required level of coverage and capacity in which it would impact upon the neighbouring base station sites in the wider network. Therefore, this site has to be discounted as it does not meet the operator's technical requirements.

17/ Land off Arden Drive Dorridge Solihull B93 8LP

This location is too far removed from the search area to provide the required level of coverage and capacity in which it would impact upon the neighbouring base station sites in the wider network. Therefore, this site has to be discounted as it does not meet the operator's technical requirements.

18/ Land at Widney Manor Cemetery Widney Manor Road Bentley Heath Solihull B93 9AA

This location is too far removed from the search area to provide the required level of coverage and capacity in which it would impact upon the neighbouring base station sites in the wider network. Therefore, this site has to be discounted as it does not meet the operator's technical requirements.

Officers have looked at these alternative sites and the remainder of the search area, but found that the majority of the streets were high density residential roads with low street furniture for any proposal to relate to. Alternative sites offered would have a more detrimental impact on the character of the area or residential properties, and they do not offer the opportunity to site a mast adjacent to non residential development such as the existing railway line and associated railway infrastructure, including the nearby overhead signal gantry erected on a lattice frame. As such no more suitable sites to accommodate the required base station could be identified.

Having regard to the restrictive nature of the cell search area in this instance, officers are content that there is no scope for the operators to share an existing mast, there are no tall buildings or other structures upon which the required apparatus could be installed, and there are no more superior options than the application site to accommodate a ground based structure. This is a material consideration to which significant weight in favour of the application proposal should be given in the overall balancing exercise.

Whether the proposal will be harmful to the character and appearance of the area

Policy P14 iii of the SLP specifically relates to telecommunications development. It advises, *"That the Council will seek to protect and enhance the amenity of existing and potential occupiers of houses, businesses and other uses in considering proposals for new development and will support the development of electronic communications networks including telecommunications and high speed broadband. The Council will have regard to the needs of telecommunications operators, any technical constraints on location of telecommunications apparatus, the potential for sharing sites, the impact of development on its surroundings, the sensitivity of the environment and the design and external appearance of telecommunications apparatus. Development in or adjacent to sensitive locations will be permitted only if there is no other technically suitable location that both meets operational*

requirements and causes less environmental harm and any mast is at a distance of at least twice its height from the nearest residential properties”.

The application site is located within land identified as local green space as detailed in Policy VC4: Green Space of the KDBH Neighbourhood Plan 2019 which states;

‘In line with the National Planning Policy Framework paragraphs 76 and 77, the Neighbourhood Plan designates the land identified in the list below (item 15. Land at Conker Lane) as Local Green Space where development will not be allowed unless it is ancillary to use of that green space and does not diminish its character as a green space or it is demonstrated there are very special circumstances in which to make an exception.’

Furthermore, in relation to public open space, policy P20 of the Local Plan advises that the loss of existing facilities through development will not be permitted where they are of valued by the local community for recreation, visual amenity, nature conservation, or make an important contribution to the quality of the environment or network of green infrastructure. This is unless, the proposal complies with one of two identified criteria, the second of which being if the need or benefits of the development clearly outweigh the loss.

An 18m high lattice style mast is proposed (the height of which it has been demonstrated is required due to both coverage and obstruction purposes) to minimise its visual impact on the area. In essence it is designed to appear as an additional item of infrastructure contained within an open landscape rather than a streetscene and given that it is to be located close to the existing railway lattice signal gantry that is erected across and over the track to allow trains to pass beneath and which already stands on higher ground than the proposed mast. Such a proposed location for the mast would help reducing the preserved overall height of the proposed mast, when viewed from the surrounding green open space and from closest neighbouring streets in Oakhall Drive and Beckford Croft. This is given the existing railway signal gantry is less tall, but nevertheless stands on higher ground.

Furthermore, at this location, the chosen site offers the opportunity to site a mast that:

- Having regard to the predominantly residential nature of the cell search area the mast can be located in a position relatively distant being at least 60 metres from the closest residential dwellings in Oakhall Drive and Beckford Croft located on the other side of the railway on higher land;
- Benefits from a backdrop of non-residential development thereby ensuring maximum separation from residential dwellings (albeit relatively speaking of course);
- Benefits from being located within a discrete area of the east railway boundary line of this 5.24 Ha of public recreation space, rather a more open central prominent location within this green space or along existing residential pavements. The proposed mast would be located away from of the main public open space area and away from the many residential

houses that envelope this public open space, and not located on any of the network of public footpaths that lead into and through this public open space connecting from Four Ashes Road in the west, Mill Lane in the north and Manor Road in the south. The precise location would be within a backdrop of mature tall trees and on land lower to the railway beyond which are neighbouring houses at least 50 metres away.

- At this location the prevailing infrastructure within 20 metres of the proposed site is a Network Rail signal gantry erected in a similar lattice structure, above and across the track, allowing trains to pass beneath and standing on higher land to the proposed mast and which is clearly visible above fence lines and from residential properties located in higher land in Oakhall Drive on the opposite side of the track. The addition of the top view of this mast would therefore not be any more detrimental than the existing situation with the railway signal gantry

The above represents a set of circumstances to demonstrate that, in terms of the chosen siting of the mast, and the design as a lattice mast type, the proposal is the most suitable having regard to the constraints imposed by the recreational open land character of the area and the technical requirement to provide additional coverage. The proposed lattice design will enable the mast to be erected in modules rather than a single pole construction given the off road location and the proximity to the railway. It should also be noted that the mast (and cabinets) will be painted a suitable colour to further aid assimilation into the landscape of this public recreation land.

Turning now to the height of the proposed mast, it is recognised that at 18m it will constitute the tall item within the locality, but it would be installed against a backdrop of the railway track which stands on higher land and also within 20 metres of an existing signal gantry which is constructed with similar lattice structure and to a height either side and above the track to allow trains to pass beneath. Therefore from the closest residential houses in Oakhall Drive and Beckford Croft which are located at least 55 to 60 metres away, the top of the mast would appear significantly lower than the 18 metres proposed height, given the change in levels of the land between the application site and these residential streets which are built on higher land on the opposite side of the adjacent railway. However, the proposed height of the mast is unavoidable, given that it is to support the antennas of two operators and for coverage reasons.

The proposed mast and equipment cabinets are to be painted colours to match the green landscape and sky line of the surrounding open space and would, themselves, not be unduly harmful to the visual amenities of the area.

Having regard to the above, it is considered that the proposed mast is situated within the most appropriate location available to the applicants, and that the most appropriate design solution has been chosen.

However, despite the careful design and siting as stated above, it will have a limited harmful impact upon the character and appearance of the area primarily by virtue of its height. The proposal is therefore contrary to Policy P15 of the Solihull Local Plan

and Policy VCR 4 of the KDBH Neighbourhood Plan 2019. Moderate weight must be given to this in the planning balance.

The impact of the proposal upon Public Open Space

The application site is situated on Council owned parkland. Policy P20 of the Local Plan advises that the loss of existing facilities through development will not be permitted where they are of value by the local community for recreation, visual amenity, nature conservation, or make an important contribution to the quality of the environment or network of green infrastructure. This is unless, the proposal complies with one of two identified criteria, the second of which being if the need or benefits of the development clearly outweigh the loss.

Policy VC4 of the KDBHNP essentially mirrors this advice, advising that development on local green space will not be allowed unless it does not diminish its character as a green space or it is demonstrated there are very special circumstances in which to make an exception.

In this instance, the proposed mast and cabinets etc. will occupy a small footprint and be situated on rough land on the edge of the parkland, adjacent to existing dense and mature vegetation and the nearby railway line with its associated infrastructure. The previous section of this report has demonstrated that the proposal will have a limited impact upon the character and appearance of the area and as such will result in a minimal loss of public open space and its associated visual amenity. However, in line with Policy P20 of the Local Plan and VC4 of the KDBHNP, this loss is considered to be clearly outweighed by the need for the development, as set out in more detail in the following section.

Whether any harm caused by the proposal is outweighed by the requirement for the mast, the lack of any more suitable alternatives and the attempts that have been made to lessen the visual impact of the proposal as far as is practicable

A balancing exercise must therefore be taken to determine whether it has been demonstrated that the degree of visual harm is offset by whether or not there is a demonstrable need for the proposal and whether or not there are any more technically suitable locations and designs that will meet operational requirements and cause less environmental harm.

This report has already set out that there is a demonstrable requirement for the mast to provide coverage within the area, that there are no more suitable sites within the area that would enable as successful an integration into the recreational landscape and adjacent streetscenes in Oakhall Drive and Beckford Croft as the proposal, and that the design and height of the proposal is the most environmentally sensitive solution that is available to the operators having regard to their operational requirements.

These very same issues had to be balanced when an existing mast elsewhere in the borough was refused by the Planning Committee, but later allowed at appeal. In allowing the appeal the Inspector made the following comments:

- *The main issues are the effect of the appearance and siting of the proposal on the character and appearance of the area and whether any harm caused would be outweighed by the need to site the installation in the location proposed having regard to any alternative sites.*
- *The monopole would be roughly twice as tall as the street lamps and taller than the row of trees. It would also, necessarily be taller than the neighbouring buildings so that the antennas at the top of the pole can provide their intended coverage. However there are one or two trees in the wider setting, such as that outside the shops on Oxhill Road and that on the corner of Pear Tree Crescent, which are broadly similar in height to the proposal. The shape and colour of the pole would be simplistic and comparable to the street lamp columns, albeit of a wider girth, and the cabinets would be modest in scale and not dissimilar to other equipment boxes, such as those near the pedestrian crossing at the junction of Yardley Wood Road and High Street. Overall, although the pole would contrast with its immediate surroundings in terms of its height, in all other aspects of its appearance it would not be incongruous in its context. Consequently I consider the harm to the character and appearance of the area resulting from the development as a whole would be no greater than moderate.*
- *Balanced against that harm is the need to boost the capacity of the networks in this area including 2G, 3G and 4G. Chapter 10 of the National Planning Policy Framework identifies that high quality communication infrastructure is essential for economic growth and social well-being. The appellant has provided information showing the poor level of coverage of their networks in the immediate locality compared to the wider area, and I am satisfied that a need in the vicinity has been demonstrated.*
- *Significant weight can also be given to the fact that the monopole would be shared by Vodafone and Telefonica, hence minimising the need for installations at additional locations, which is an approach advocated by the Framework.*
- *Policy P14 of the Solihull Local Plan advises telecommunications development will be discouraged in residential areas unless there are no other locations that meet operational requirements and cause less harm. I do not consider it is likely that other sites which cause less harm are reasonably available.*
- *In summary I consider the moderate harm the installation would cause to the character and appearance of the area is outweighed by the benefits of a high quality communications network facilitated by the proposed development on this site.*

The above clearly sets out the government's stance that even when moderate visual harm is identified, this can and should be outweighed by the issues as set out in this report; namely technical need, and the lack of any more suitable alternatives.

In this instance, although a degree of visual harm arising from the proposal has been identified, together with harm to the provision of public open space, Officers are content that the degree of harm created by the proposal, particularly having regard to its height and appearance, is outweighed by the need for the development and the lack of any more suitable design solutions or locations. This follows the advice as set out in Policy P14 and would be seen to adhere to Section 13.2. and Policy U1: Mobile Phone and Broadband Infrastructure of the Knowle, Dorridge and Bentley Heath Neighbourhood Plan 2018-2033.

Substantial weight should be attributed to this in the balancing exercise.

Other Issues

Health

Paragraph 116 of the NPPF states that Local Planning Authorities must determine applications on planning grounds. Paragraph 116 states “They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure.”

In this instance the applicants have provided a certificate confirming that the proposed installation does fall within ICNIRP guidelines and thus the proposal is in compliance with ICNIRP guidelines – the International Commission on Non-Ionizing Radiation Protection for public exposure.

The NPPF at paragraph 115(c) is clear in that for a new mast or base station, in addition to all other requirements, the applicant must provide a statement that self-certifies that, when operational, International Commission guidelines will be met. Paragraph 115(c) reads as follows:

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:

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.

The applicants have met this requirement and there is no evidence to suggest that what has been submitted is inaccurate or incorrect.

Despite this, objections to the proposal on health grounds have been submitted, with one being particularly detailed and citing examples and studies (mainly from abroad) that cast doubt on the safety of 2G, 3G and 4G installations. As such, objectors suggest that the Council should take a precautionary approach and refuse the application on these grounds.

However, having regard to the succinct advice provided by the NPPF in para 116 and the fact that the proposal is compliant with the ICNIRP guidelines, it is not considered that any health concerns relating to the proposal outweigh the public benefits of approving the application.

Accordingly, in relation to the health implications of the proposal, the proposal is compliant with the recommendations as set out in adopted national planning policy relating to applications for mobile phone mast applications and there are no grounds to refuse the application based on health concerns.

Residential amenity

The proposed mast is located predominantly away from a residential area on open recreation ground adjacent to a railway bounding the site, beyond which are the closest residential properties in Oakhall Drive and Beckford Court which are about at least 60 metres away, and is perhaps as distant from housing as is possible, having regard to the limited extent of the cell search area and the technical requirements of the operators.

Policy P14 of the Local Plan states that electronic communications masts must be sited at least twice their distance from the nearest dwelling houses. The nearest residential dwelling to the proposal are located on the opposite side of the railway in Oakhall Drive and Beckford Croft which are at least 60 metres away. This is clearly more than twice the height of the proposed mast and hence complies with the requirements of Policy P14.

However, it should be noted that, as set out above, the NPPF advises that Local Authorities should not insist on minimum distances between new telecommunications development and existing development. This element of the policy therefore is therefore inconsistent with national policy.

Having regard to the distances involved, it is considered that the proposal will not result in any undue impact upon the amenities currently enjoyed by the occupiers of any dwellings, as at this distance it could be viewed as another item of infrastructure associated with the railway, given the close proximity of the existing railway gantry which is a tall structure and built off a similar lattice structure painted the same grey colour.

Further, the NPPF should be read and applied as a whole, and within which it is stated that the key objective of the planning system is to help achieve sustainable development. The improvement of the electronic communication network within the area will contribute to reducing reliance upon motorised transport to effectively communicate, which is central in helping to achieve sustainable development.

Given that no actual harm to residential amenity has been identified by the proposal, that the proposal will comply with policy P14 and will help to meet the sustainable development aims of the NPPF and that no more suitable locations for the mast or the design for the mast itself can be identified. Neutral weight should therefore be attributed to this in the planning balance.

Highway considerations

The application site is not located within the adopted highway and has been fully assessed by SMBC's Highway Engineers. They advise that it is unlikely that the proposed column and supporting equipment will have a severe impact on public highway safety or on the operation of the local highway network.

It is therefore considered that the proposal is compliant with Policy P7 of the Solihull Local Plan 2013 and neutral weight should be attributed to this in the planning balance.

Public Sector Equality Duty

In making your decision, you must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions). The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149 it is only one factor that needs to be considered, and may be balanced against other relevant factors.

In light of s149, objectors' health concerns have been considered and it is not considered that the recommendation to approve the proposal in this case will have a disproportionately adverse impact on the health of the public or any other protected characteristic.

Human Rights

In determining this application, Members should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

Members are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant).

The Council has considered the objections in light of the Human Rights Act in particular with regards to Article 8 and the recommendation to approve the proposal is considered a proportionate response to the submitted application.

The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to approve the proposal is considered a proportionate response to the submitted application based on the considerations set out in this report.

CONCLUSION

The proposed 18m high mast is sited in a location and is of such a height as to form a reasonably prominent addition to the immediate recreational landscape, but less so to the distant residential streetscenes beyond, but nevertheless will result in some visual harm, albeit limited due to its careful siting and design. The proposed lattice structure is necessary to erect the mast in modular sections at this location and would match the lattice structure of the nearby railway gantry. Reducing the height of the mast would result in the need to introduce an additional mast near by.

The proposal would also potentially conflict with Policy VC4 of the KDBH Neighbourhood Plan 2019 where development will not be allowed unless it is ancillary to use of that green space and does not diminish its character as a green space or if it is demonstrated there are very special circumstances in which to make an exception. However, this report demonstrates that careful consideration has been made to its location, being located closest to other infrastructure, being the railway and lattice gantry structure, which stands on higher land on the boundary adjacent to this recreational land and which would in the light of this policy significantly limit the potential harm and qualify as special circumstances. Moderate weight should be afforded against the proposal in this regard.

However, it is considered that in this instance there is a demonstrable requirement for the proposed structure, having regard to the operators' operational needs there are not considered to be any more acceptable alternative locations for the mast or more sympathetic design solutions, and the proposal will enable a single installation in the area to accommodate two operators rather than two separate and independent base stations to address the shortfall of service provision of 2G,3G and 4G in Dorridge. These factors are considered material to the extent that the degree of limited visual harm created by the proposal is outweighed for the reasons as set out in this report.

In addition, the proposal is not expected to result in any undue impacts upon residential amenity or highway safety, and the applicants have confirmed that the base station will be fully ICNIRP compliant.

The proposal is therefore considered compliant with policies P7 and P14 of the Solihull Local Plan 2013, Policy U1 and VC4 of the KDBH Neighbourhood Plan 2019 and the aims and objectives of the NPPF.

RECOMMENDATION

Approval is recommended subject to the following conditions:

1. CS00– Compliance with all plans
2. Prior to its first use, the monopole and all ground based equipment shall be painted a colour agreed in writing with the Local Planning Authority and shall thereafter be maintained in this finish.

To safeguard the visual amenity of the area in accordance with Policy P15 of the Solihull Local Plan 2013

3. The site is very close to the existing operational railway – the proposed equipment will need to be reviewed and agreed with Network Rail to ensure that it does not impact GSM-R as a permanent arrangement. The applicant is to submit the attached form to AssetProtectionLNWSouth@networkrail.co.uk – no works are to commence on site until the equipment upgrade is agreed with Network Rail.

NOTE: Network Rail detail;

- If the proposed equipment has the potential to impact upon GSM-R the applicant will be liable for all costs incurred by Network Rail in mitigating the impacts.
- All works within 10m of the railway boundary including excavation/earthworks and piling/crane working will need to be agreed with Network Rail.
- A BAPA will be required to facilitate the proposal.