

**APPLICATION REFERENCE: PL/2021/00038/PN****Site Address:** Telecommunications Mast Knightsbridge Road Olton Solihull

<b>Proposal:</b>	Installation of 19m high mast featuring integrated cabinet and supporting communications apparatus, plus 6 No. equipment housing cabinets at ground-level and ancillary works thereto.
<b>Web link to Plans:</b>	<b>Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at:</b>  <a href="https://publicaccess.solihull.gov.uk/online-applications/">https://publicaccess.solihull.gov.uk/online-applications/</a>

<b>Reason for Referral to Planning Committee:</b>	<b>Called into Committee by Councillor Thomas and the number of objections received</b>
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<b>Recommendation:</b>	<b>APPROVAL</b>
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**EXECUTIVE SUMMARY**

An application has been submitted seeking the determination as to whether or not the Prior Approval of the Local Authority is required for a new electronic communications mast and associated equipment to be used by both EE and 3UK.

The proposed mast would be a 19m high monopole, supporting 6 no antenna, together with the installation of ground-based equipment cabinet and development ancillary thereto. Following challenge from the local planning authority to the applicant regarding the siting and need of the proposed apparatus satisfactory evidence has been submitted to justify the proposed scheme. 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.

**BACKGROUND AND CONTEXT**

The proposed mast is required as part of the new West Midlands roll out of 5G electronic communications technology. The West Midlands has been selected to become the innovative home to the UK's first multi-city test bed for 5G services, which will pave the way for a more extensive and future roll out of 5G across the UK.

The development of a network to provide 5G services within Solihull is essential to enable this to happen and to meet the region's commitment to providing this service.

The huge advances in technology made possible by the provision of a comprehensive 5G network will provide the next significant step forward in mobile connectivity, and will enable an unprecedented leap in the capabilities of electronic communications, including:

- Hospital outpatient appointments and emergency consultations carried out remotely by video link not subject to droppage or latency barriers. As well as being more convenient for patients, this means they can play back their appointment at a later date or share it securely with a family member or carer to help inform their care.
- “Connected Ambulances” - Paramedic crews at an incident could access specialist advice while they are at the scene, e.g. video conferencing with consultants or other clinical specialists. Live streaming of patient data from ambulance en route.
- Live streaming of CCTV footage from public transport buses, enabling immediate action against anti-social behaviour. “Intelligent cameras” using artificial intelligence (AI) to identify incidents could provide the opportunity for far greater coverage than is possible at present.
- Although at an early stage, 5G will have the capability to allow the development and use of autonomous vehicles, which will transform the way we travel, preventing major accidents, improving traffic flow and reducing energy consumption. The West Midlands Combined Authority will partner with Jaguar Land Rover (a significant Solihull based employer) to facilitate real world testing of driverless cars.

In addition to the above obvious and significant future benefits of the 5G network, the network also brings with it massive 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.

A recent report also estimated that local authorities will share collectively an annual £2.35 billion of efficiency savings, from reduced social care costs for the elderly through 5G monitoring, to savings through smarter street lighting.

It is therefore clear that more than any previous generation of mobile networks, 5G has the potential to transform the way we live and improve economic productivity. Networks will have the capacity for millions more devices to be connected at the same time, enabling businesses and communities to operate more effectively. It will allow cities and communities to manage traffic flow, monitor air quality and control energy usage through real-time management of high volumes of data.

However, in order to provide the advances available through the 5G network, new hardware, masts and equipment is required that is not as flexible in terms of height and design as previous generations. Given the technical requirements of the antennas and masts required to provide 5G coverage, the heights of masts generally need to be higher than before, and antennas cannot be designed as sensitively as before. This will obviously have a greater impact upon street scenes than older telecoms apparatus, and the implications of this will be explored later in this report.

5G uses higher frequency radio signals that have a shorter range and will require more base station sites than the existing networks. 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.

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; and
- Whether any visual 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.
- Highway safety

Other Material Considerations:

- Health
- Residential Amenity

## **CONSULTATION RESPONSES**

### **Statutory Consultees**

The following Statutory Consultee responses have been received:

Local Lead Flood Authority – No objection

### **Non Statutory Consultees**

The following Non-Statutory Consultee responses have been received:

- SMBC Highways – Final comments awaited

## **PUBLICITY**

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

72 responses were received objecting to the proposal including from Councillor Thomas and Julian Knight MP. All correspondence has been reviewed and the main issues raised are summarised below:

- Highway safety
- Not appropriate location
- Excessive size
- Close to residential
- Alternative sites more appropriate
- Impact on living conditions of residential properties
- Dangers to health
- Insufficient neighbour notification
- Harmful impact on wildlife

## **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), 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.

The NPPF Paragraph 112 makes specific reference to 5G: *'Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G).'*

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. 5G technology 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. Here the NPPF states that decision makers 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.

The proposed mast is required as part of the new 5G network rollout. It is submitted on behalf of EE and 3UK. This report has already set out that the West Midlands has been selected to become the innovative home to the UK's first multi-city test bed for 5G services, and that the development of a network to provide 5G services within Solihull is essential to enable this to happen and to meet the region's commitment to providing this service.

In order to roll out the 5G network, the operators are seeking to upgrade their existing networks. Accordingly, where existing base stations can be upgraded through the installation of the additionally required antennas they will, but where they cannot be upgraded new base stations are required. In this instance, the existing EE and 3UK mast nearby cannot be upgraded for reasons discussed later in this report, and as such a new installation is required. This also justifies the limited cell search area for each proposed 5G cell, as they must either constitute the upgrading of an

existing base station, or failing that be located near to an existing base station. In such situations if it were too far from the existing base station it would create a new cell and interference between the cells and therefore wouldn't work effectively.

It is therefore considered that there is a technical requirement for the proposed installation within the indicative search area for this cell.

#### 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 this instance the cell search area is a very limited area of the borough that is centred around the operators' existing 3G and 4G mast in the area, which is located within and above the roof of an existing shop on Knightsbridge Road. The area of search is so constrained because the operators understandably, having regard to government guidance, based their 5G rollout strategies primarily on upgrading their existing base stations to accommodate the required apparatus where possible. As such, the operators requirements for new base stations and upgrades follows the cell structure of their existing 3G and 4G networks, and the new 5G apparatus needs to be installed either on an existing base station (upgrade), or close to an existing station (new installation) in order to provide the required contiguous network coverage.

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 alternative sites considered, together with the reasons for discounting the sites are as follows:

1. Junction of Arundel Crescent/ Knightsbridge Rd (south side). An installation at this location would impact on residential amenity and pedestrian movement. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.
2. Junction of Arundel Crescent/ Knightsbridge Rd (north side). An installation at this location would impact on residential amenity and pedestrian movement. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.
3. Junction of Castle Lane/Knightsbridge Rd. An installation at this location would impact on residential amenity and pedestrian movement with the added constraint of the proposed equipment potentially impeding the vision of drivers who are turning at

the adjacent road junction. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.

4. Junction of Castle Lane/Dean Court Rd (north side). An installation at this location would impact on residential amenity and pedestrian movement. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.

5. Junction of Castle Lane/Dean Court Rd (south side). An installation at this location would impact on residential amenity and pedestrian movement. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.

6. Castle Lane Bridge. High-level and dense vegetation would impact the radio signal and thereby adversely affect the operation of the base-station. Furthermore, the footpath is generally too narrow to safely accommodate the apparatus. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.

7. Junction of The Dell/Knightsbridge Rd. An installation at this location would impact on residential amenity and pedestrian movement. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.

8. Junction of Onslow Crescent/Knightsbridge Rd. An installation at this location would impact on residential amenity and pedestrian movement. Other alternatives exist which are more appropriate in order to deliver the required coverage to the target area.

Officers have also carried out a survey of the search area and surrounding streets, but found that the majority of the streets were high density residential streets with lower street furniture for any proposal to relate to than the application site, were characterised generally by smaller verges within which to locate the proposed mast and equipment and would be completely and immediately surrounded by residential dwellings. Residents had identified some land to the rear of the Childrens day nursery as a possible site. Officers did ask the applicants to reconsider this location behind the nursery. Unfortunately, due to access restrictions this was discounted. Furthermore, any installation located here would be close to and in direct line of site from private rear gardens, which would be more harmful to residential amenity than the site the subject of this application. 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”*.

A 19m high streetworks 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 street furniture and relate to the existing tall lampposts within the area that provide context to aid assimilation into the street. However, as set out previously in this report, it is recognised that due to the technical constraints of the available technology to provide 5G coverage, the proposed mast is both taller, bulkier and not of such a sensitive appearance as historic 3G and 4G proposals such as the existing base station nearby. This, however, is unavoidable and no more sympathetic design solutions exist that are available to the operators. The proposal is therefore the lowest in terms of height, and the most sympathetic in terms of appearance, option available.

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 from the residential dwellings;
- Benefits from a backdrop of non-residential development thereby ensuring maximum separation from residential dwellings (albeit relatively speaking of course);

The above represents a set of circumstances to demonstrate that, in terms of the chosen siting of the mast, and the design as a streetworks type installation (as opposed to a more standard monopole or lattice mast), the proposal is the most suitable having regard to the constraints imposed by the character of the area and the technical requirement to provide additional coverage. It should also be noted that the mast (and cabinets) will be painted a suitable colour to further aid assimilation into the streetscene.

Turning now to the height of the proposed mast, it is recognised that at 19m it will constitute the tallest item of street furniture within the locality, being about 13m above the existing adjacent lampposts and 12m above a nearby telegraph pole.



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 equipment cabinets are to be painted green. It is considered that they would have the appearance of underground service equipment boxes (e.g. BT equipment cabinets) that are common features within highway verges. And would, themselves, not be unduly harmful to the visual amenities of the area.

The Local Authority did ask the applicants to investigate whether the cabinets could be relocated closer together, or sited back to back, however there is operational issues with the site with underground services that prevent this from happening.

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 moderate weight must be given to this in the planning balance.

Whether any visual 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 streetscene 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 and nearby clutter.

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, 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.

### Highway considerations

The application site is on land that forms part of the adopted highway and which is subject to the provisions contained within the 'Highways Act 1980' and 'New Roads and Streetworks Act 1991'. The applicant is an Electronic Communications Code

Network Operator (ECCNO). The installation of communication apparatus by an ECCNO is governed by the Communications Code issued under the 'Communications Act 2003'. The code allows telecommunications operators to install communications apparatus under, over, in, on, along or across publicly maintainable highways.

SMBC's Highway Engineers raised concern with regards to the installation of the proposed mast and associated equipment increasing the amount of infrastructure in place on the public highway footway, further restricting the route between crossing points on Castle Lane and Knightsbridge Road. They required a minimum clear width of 2m to be provided along the footway. The location of the cabinets has been amended to allow a 2m gap over coming this concern.

The area proposed to be used is currently used as informal car parking for around two or three vehicles. However this is a public highway footpath and should not be used for parking of vehicles. The proposal will displace several vehicles from this area, but the vehicles that currently park there are illegally parked. Photos supplied by residents show that these vehicles cause obstruction to pedestrians for which this public highway footpath is meant.

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.

## **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, several objections to the proposal on health grounds have been submitted. Officers have previously sought the advice of Public Health England concerning the health implications of the 5G network.

Public Health England (PHE) advises the UK Government on the public health aspects of exposure to radio waves, including those from mobile phone base stations and other radio transmitters in the environment, of which the 5th Generation (5G) of mobile telecommunications technology will be one of them. Although 5G technology brings new services and reflects the latest evolution in mobile communications technology, it does that through the use of radio waves which are not new, and have been transmitted into the environment for a range of purposes over many years.

It is important to note that PHE provides public health advice on limiting exposures to radio waves based on the published scientific evidence.

Based on the accumulated evidence and reviews, PHE advises that the guidelines of the ICNIRP should be adopted and there is no convincing evidence that radio wave exposures below the ICNIRP guideline levels cause adverse health effects. PHE advises that exposures to Electromagnetic Fields (EMFs) in the environment, including those arising from 5G are normally well below the levels recommended in the ICNIRP guidelines.

*PHE's view is that "It is possible that there may be a small increase in overall exposure to radio waves when 5G is added to an existing network or in a new area. However, the overall exposure is expected to remain low relative to guidelines and, as such, there should be no consequences for public health."*

The Office of Communications (Ofcom) has measured the radio wave emissions from equipment used to transmit mobile phone signals and other wireless services for several years. Recently it extended its measurement programme to cover the frequencies being used for 5G. Focusing on 22 5G sites in 10 cities across the UK, on areas where mobile use is likely to be highest, emissions were a small fraction of the relevant ICNIRP guideline level – in line with the above PHE advice. The maximum measured at any site was approximately 1.5% of the guideline level. PHE acknowledges the difficulty in development of exposure protection guidance, which is that the interpretation of studies of potential health effects is a matter of judgement, and there is a spectrum of opinion within the scientific community and elsewhere. PHE is aware that different groups have concerns about EMFs and where they have proposed alternative limits, these do not appear to have a scientific rationale based on health effects in the same way as the ICNIRP guidelines. PHE is

not aware, therefore, that these initiatives are driven by any scientific evidence that has been overlooked in its own advice.

It is accepted that health considerations and public concern can in principle be material considerations in determining applications. However, having regard to the views produced by PHE 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 within a predominantly residential area, though is to be sited upon a site that, due to the extent of the highway at this location and the adjacent commercial properties, 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 dwellings to the proposal are numbers 51 and 53 Castle Lane to the west, which are around 23-24m respectively away from the proposal and 1 and 3 Knightsbridge Road located to the north/north east of the proposal and are about 20m and 25m respectively away. 8 Knightsbridge Road is the closest property at around 12.8m. This is clearly within twice the height of the proposed mast and hence fails to comply 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, the slimline nature and appearance of the proposed mast, 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 it will be viewed as another item of street furniture within the highway verge.

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 the proposal 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, non-compliance with P14 in its entirety is not considered

sufficient grounds on which to refuse the proposal. Neutral weight should therefore 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 the objector's 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 (objector) 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 19m high mast is sited in a location and is of such a height as to form a reasonably prominent addition to the streetscene which will result in some visual harm, albeit limited due to its careful siting and design. 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. 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 compliant with policies P7 and P14 of the Solihull Local Plan 2013, 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 in Fir Green (RAL 6009) with matt finish 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