

APPLICATION REFERENCE: PL/2020/02574/PN**Site Address:** Telecommunications Pole Widney Lane Solihull

Proposal:	Installation of a 20m slim-line column supporting 6 No. antennas, 2 No. transmission dishes, 2 No. equipment cabinets and ancillary development thereto including a GPS module, and 3 No. Remote Radio Heads (RRHs).
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: https://publicaccess.solihull.gov.uk/online-applications/

Reason for Referral to Planning Committee:	This is a resubmission of a previous identical application which was refused by Members at Planning Committee. Called in for determination by the Planning Committee by Councillor Tildesley
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Recommendation:	APPROVE SUBJECT TO CONDITIONS
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COMMITTEE HISTORY

Planning Application PL/2020/00870/PN for the installation of a 20m slim-line column supporting 6 No. antennas, 1 No. transmission dishes, 2 No. equipment cabinets and ancillary development thereto including a GPS module and 3 No. remote radio units (RRUs) was recommended for approval at planning committee on 22/07/2020, but refused by Members for the following reason;

'1. It is not considered that the applicant has undertaken a sufficient survey of the area, in particular to include Widney Manor Railway Station and its car park to be able to properly and reasonably demonstrate that there are no more suitable sites available that both meet operational requirements and cause less visual harm than the proposal the subject of this application. As such, the proposal would be contrary to Policy P14 of the Solihull Local Plan 2013 and advice contained within the NPPF.'

The proposal the subject of this application is identical to that previously refused, but the applicant has now submitted a 23 page addendum to the supplementary information statement to address the refusal reason with detailed reasons for

discounting Widney Manor Railway Station as a suitable alternative location for the proposed mast and associated equipment.

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 Telefonica (O2). The proposed mast would be a 20m high monopole, supporting 6 no antenna, 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, including the Widney Manor Railway station and car park area 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 dropage 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 before, 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 in 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.

Other Material Considerations:

- Health
- Residential Amenity
- Highway considerations

CONSULTATION RESPONSES

Statutory Consultees

The following Statutory Consultee responses have been received:

- SMBC Drainage – No objection

Non Statutory Consultees

The following Non-Statutory Consultee responses have been received:

- SMBC Highways – No objection

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015. 10 responses were received, 9 objecting to the proposal including an objection from Councillor Tildesley. All correspondence has been reviewed and the main issues raised are summarised below:

- Dangers to health, supported by a wide variety of studies that do not support current government guidance;
- Increased intensity of telecom development. Why have 2 masts?
- Not an appropriate location as will be within 40 metres of residential development and would not comply with policy P14 of the SLP;
- Excessive height and size, taller than adjacent trees;
- Too close to existing residential properties;
- 5G equipment has increased risk of vandalism and fire risk;
- Alternative sites more appropriate including Widney Manor Train Station;
- Better to be located on higher ground on station car park;
- Better located in station land adjacent to existing station infrastructure;
- Will create visual harm and incongruous to the surrounding streets;
- There is a similar mast at Olton Station, so why cannot this proposed mast be located in the adjacent station carpark?
- Impact on living conditions of residential properties;
- Harmful to the health and amenities of local residents.

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 wellbeing.

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. 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.

The proposed mast is required as part of the new 5G network rollout. It is submitted by Cornerstone, who represent both Vodafone and Telefonica (O2). 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 Vodafone and Telefonica base station 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 at the entrance to Widney Manor train station. 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, the most popular to locate the new mast within the grounds of Widney Manor Train Station and car park, which stands on higher ground and further away from existing residential properties than the proposed site. Indeed, the previous application was refused because members did not consider that an adequate survey of the area had been undertaken to justify the proposed siting of the mast.

During the assessment process in this application these sites have also been considered by the applicants, but also rejected for the reasons as set out below. They have all been included in the addendum to the supplementary information statement, which has been submitted to address the refusal reason to the previous application.

This addendum demonstrates that the possibility of siting the radio base station at Widney Manor Railway Station has been fully explored, but Network Rail will not allow an installation on their land. Such a siting is therefore not available to the applicants. It also sets out that there are no more suitable sites that could be utilised by the operator in order to provide the latest 5G next generation mobile connectivity to this area of Solihull.

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

D1 – Existing Telecommunications Site – Vodafone SWs site, Widney Lane, Widney Manor, Solihull, B91 3TD NGR E: 415297 N: 277629

The operator has fully investigated upgrading this site to provide the latest technologies for 4G services as well as new 5G coverage/capacity in to the Telefonica network. However, the design of the existing pole is not able to support the new 5G antennas for both Vodafone and Telefonica. To continue to share an existing structure at this location would require significant redevelopment of the existing structure to a much more structurally robust mast capable of hosting all the equipment from both operators. This would move away from the relatively uniform and slimline street furniture poles proposed and therefore it is felt that a secondary, more slimline, street-pole is a more appropriate and sensitive solution to 5G service provision whilst minimising impact for a street furniture setting. This existing telecommunications site has been discounted for Telefonica's new technology requirements for this reason. A new replacement site for Telefonica is therefore needed to provide this operator with the latest 2G, 3G 4G and 5G technologies. The existing site will remain in place for Vodafone technologies.

D2 – Streetworks Widney Lane, Solihull, B91 3XH NGR E: 415083 N: 277604

There are a number of underground services in this location which would prevent an installation from being built in this location. Therefore it has been discounted for this reason.

D3 – Streetworks grass verge Ashbrook Crescent, Widney Manor, Solihull, NGR E: 415314 N: 277616

A site in this location would be too prominent in the streetscene. It would have a detrimental effect on visual amenity of the surrounding area. The preferred option would be less prominent, better shielded by mature trees in the immediate area close to an established telecommunications site.

D4 – Rooftop – Bannatyne Health Club, Saintbury Drive, Solihull, NGR E: 415184 N: 277452

The rooftop is too low in this location to provide the necessary coverage to the target coverage area. It is also too far from the existing site to provide the necessary replica replacement coverage for 2G, 3G and 4G as well as new 5G coverage. It has therefore been discounted for these reasons.

D5 – Greenfield – Widney Manor Golf Club, off Saintbury Drive, Solihull, NGR E: 415230 N: 277356

The ground level is too low in this location to provide the necessary coverage to the target coverage area. It is also too far from the existing site to provide the necessary replica replacement coverage for 2G, 3G and 4G as well as new 5G coverage. It has therefore been discounted for these reasons.

D6 – Existing Structure – pylons west of Widney Manor Road, Solihull, NGR E: 415210 N: 277263

Whilst National Grid Pylons have been used in the past to support operators' equipment, the latest Health and Safety guidance does not promote the use of pylons for telecommunications apparatus going forward, due to overriding health concerns for the installation and maintenance of the equipment. A site in this location is also too far from the existing site to provide the necessary replica replacement coverage for 2G, 3G and 4G as well as new 5G coverage. In addition this site is in the Flood Zone and development should be avoided in such locations. It has therefore been discounted for these reasons.

D7 – Existing Telecommunications Site – Streetworks Widney Manor Road, Solihull, NGR E: 415792 N: 277198

An installation at this location is located too far to the south east to deliver the required level of coverage to the target coverage area.

D8 – Streetworks – Grass verge of Alderminster Road, Widney Manor, Solihull, B91 3XL NGR E: 415207 N: 277657

A site in this location would be very prominent in the streetscene and would have a greater impact on the visual amenity and character and appearance of the area than the preferred option. It has therefore been discounted for these reasons.

D9 - Footpath/grass verge of Widney Lane opposite The Spinney, Widney Manor, Solihull, B91 3JP NGR E: 415486 N: 277672

A site in this location would be directly opposite a residential frontage with no intervening natural vegetation to provide any shielding. This would have a greater impact on visual amenity than the preferred option. As a result it has been discounted for this reason.

D10- Widney Manor Railway Station and its associated car park which is owned by Network Rail.

With regard to the objections received, who suggest that the car park to the Widney Manor Station would be a more suitable site to locate this mast and regarding the refusal reason for the previous refused planning application which states *'It is not considered that the applicant has undertaken a sufficient survey of the area, in particular to include Widney Manor Railway Station and its car park to be able to properly and reasonably demonstrate that there are no more suitable sites available that both meet operational requirements and cause less visual harm than the proposal the subject of this application.'* the Addendum submitted by the Agent in this resubmitted application now details the following information to discount this site.

In detail,

Network Rail have, for a number of years, refused to allow UMTS900MHz and LTE900MHz frequencies from being utilised on telecommunications installations on their land. This is because of the potential risk of interference to the GSM-R (Global System for Mobile Communications – Railway) which is an international wireless communications standard for railway communications and applications. It is used for communication between train and railway regulation Control Centres. A letter from Network Rail dated 4/10/13 to the operator Vodafone is attached to the submitted Addendum, which explains why this frequency is not allowed to be used on their land and which details;

'At this stage we were unable to find any scenarios which indicated that usage of 900MHz, beyond the traditional 2G/GSM technologies, could be permitted in a manner which does not result in a threat of interference to GSM-R. For this reason UMTS900, LTE900 or other non-GSM technologies operating in the frequency range 870 – 960MHz must not currently be deployed on Network Rail property due to the risk of interference to GSM-R.'

Network Rail to date still apply these restrictions on 900MHz frequencies. This is the main reason why an installation at Widney Manor Train Station is discounted.

In summary, the submitted Addendum demonstrates that siting the proposed radio base station at Widney Manor Railway Station is not possible for a number of reasons. The main reason being that the operator requires UMTS900 and LTE900 frequencies on the proposed column as is currently the case for the existing site on Widney Lane. Network Rail have confirmed that they will not allow such frequencies to be used on their land. As such, to install a radio base station in this location would prevent the operator from providing the same level of coverage that is currently being provided in this cell area for existing technologies. Indeed, as these frequencies tremendously improve indoor coverage, customers would have a really poor mobile experience including dropped calls and constant buffering without such technologies being able to be provided. This is not an acceptable position for the operator. A site in this location therefore has to be discounted.

In addition to this main reason, the following additional reasons have been identified in the submitted Addendum that discount the Widney Manor train station site and are listed below (points A to E);

A/ Ofcom sets the frequencies operators can utilise. Therefore, it is not possible for Telefonica to utilise another frequency to overcome the Network Rail embargo on UMTS900 MHz and LTE900 band widths. The operator is legally obliged to remain within the UMTS900 and LTE900 MHz band frequency allocated to it by Ofcom.

B/ Another consideration for discounting this site is that Network Rail have very complex and lengthy clearance processes for sites on their land which can take up to 2 years. As the site is in the fall safe distance of the railway line, the operator would need to obtain permission to have the line closed whilst they installed the equipment. This is not always forthcoming and can add further delays to the installation. If permission is not provided then the site may never be built and the operator has lost significant time and money trying to install a site.

C/Central Government acknowledge the very real opportunities and economic and social benefits of providing 5G across the nation, which is one reason why the West Midlands is a test bed for 5G trials, why the Government wants the UK to be a world leader in 5G technology and why it is ambitious for the UK's digital infrastructure. The Government does not want to wait around for 2-3 years to provide 5G, it wants 5G to be provided now. Indeed, stalling on 5G provision can have significant detrimental effects on the UK economy. The Centre for Social Policy in its recently published report 'Upwardly Mobile: How the UK can gain the full benefits of the 5G revolution'¹ estimate the cost as much as £41 billion.

D/ The new Electronic Communications Code ("the New Code") received royal assent on 27 April 2017, as part of the Digital Economy Act 2017 ("the Act"). The New Code came into force on 28 December 2017. In connection with these rights, the Code allows persons to whom the Code applies to: in the event that agreement cannot be reached with the owner or occupier of private land, the Code allows an operator to apply to the Court to impose an agreement which confers the Code right being sought or for the Code right to bind the landowner or occupier. To force an unwilling site provider to tribunal, when they are unwilling due to technical reasons for their own network, is unreasonable and irresponsible. The Widney Manor Railway Station land is not the only viable, acceptable option. Far from it. It is not a viable option for many reasons described above and throughout the submitted Addendum.

E/ Notwithstanding the above, an Appeal Inspector has concluded that 'even if alternative sites were available, there is no requirement within the Framework or the GPDO for developers to select the best feasible siting where a site as proposed is considered to be acceptable'. Appeal PINS ref: APP/J4423/W/17/3188962- , Totley Brook Road, Sheffield for a 12.5m column and ancillary development, the Inspector considered alternative sites and third party objections which stated that a full consideration of siting needed to be taken in to account. The inspector at para 16 (and appended to this Addendum) stated in his report:

'I have noted the appellant's submissions within the supplementary information as well as the contention of interested parties regarding the need for fuller consideration

of siting. Nevertheless, I am mindful that even if alternative sites were available, there is no requirement within the Framework or the GPDO for developers to select the best feasible siting where a site as proposed is considered to be acceptable'. Therefore this is clear guidance from the Inspector that there can be more than one location which can be acceptable in planning terms.

Overall, 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 appeal 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.

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 20m 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);
- at this location the prevailing street furniture (which includes an existing 15m tall base station), against which the mast would be viewed, is the tallest within the area, again serving to provide context and minimise the perception of the height of the mast.

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 as per the planning condition.

Regarding Neighbour concerns and turning now to the height of the proposed mast, it is recognised that at 20m it will constitute the tallest item of street furniture within the locality, being about 8m above the existing adjacent lampposts and 5m above the nearby mast. 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.

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. Members are advised that the decisions made by Inspectors at appeal are material considerations in the assessment and determination of subsequent planning applications. 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.

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 that cast doubt on the safety of 5G installations. As such, objectors suggest that the Council should take a precautionary approach and refuse the application on these grounds. However, Officers previously consulted Public Health England regarding the health implications of 5G masts.

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. In arriving at this view PHF have had sight of the detailed letter of objection to the proposal that makes reference to the previously

referenced bodies of alternative studies and views, and they have confirmed that there is nothing new contained therein that would cause PHE to consider reviewing its existing advice.

It is accepted that health considerations can in principle be material considerations in determining applications and have been fully considered in this application. 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. 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 numbers 8 and 10 Ashbrook Crescent to the south, which is around 26-28m respectively away from the proposal and 32 Austcliff Drive located to the north of the proposal and is about 32m away. 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 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 no actual harm to residential amenity has been identified by the proposal, 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.

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.

The application 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 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 20m 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, including Widney Manor Station 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. This point has been clearly demonstrated in the supporting information submitted in the Addendum document submitted by the applicants, which addresses the refusal reason for the previously refused application.

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, P8 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