

Recommendation Report for Planning Permission

REF NO: FG/180/21/PL

LOCATION: Adjacent to Greystoke Road
Ferring
BN12 5JL

PROPOSAL: Upgrade of the existing radio equipment incorporating; the replacement of the existing 13.8m Mast and associated antennas with a new 20m Mast, antennas and ancillary support units, and development works ancillary thereto, including the upgrade of the existing cabinets. This application is in CIL Zone 4 (zero rated) as other development.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
	Revised drawings have been received during the course of the determination period, due to a change in the cabinet type proposed. The revision is considered non-material so can be accepted under this current application.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Open unenclosed grassed verge.
SITE CHARACTERISTICS	Grassed verge adjacent to footway and Greystoke Road. Currently consists of a 13.8m high telecommunications mast, and 3 cabinets, all painted dark green.
CHARACTER OF LOCALITY	Village character. Residential area. Some community buildings to the south (i.e. Glebelands Community Centre and Recreation Ground, Ferring Football Club, Ferring Baptist Church).
	To the east of site, adjacent footway, timber post and rail fence, and grassed/treed area associated with the Glebelands Community Centre.
	To the south, the Glebelands Community Centre.
	To the north, residential bungalows (nos. 1- 15) along Rife Way.
	To the west, Greystoke Road and rear of residential properties along Ferring Street (within boundary of Ferring Conservation Area).

Noted.

REPRESENTATIONS

Ferring Parish Council -
No comments received.

No other representations were received.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Conservation Officer -
Due to lack of information cannot undertake full assessment on heritage impact.

Archaeological Advisor -
No objection.
It is unlikely that works associated with the proposal would impinge on archaeological deposits to the extent that refusal or the requirement of other mitigation measures would be justified.

Environmental Health -
No adverse comments.
However, expect mast to comply with ICNIRP guidelines. Also recommend standard construction hours condition.

WSCC Highways -
No objection.
Mast will not obstruct the visibility of the highway nor the works obstruct pedestrians on the footway. Recommend informative that applicant needs formal approval for works to the highway and to agree the required traffic management.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted and addressed in Conclusion section of report.

POLICY CONTEXT

Designation applicable to site:
Built-Up Area Boundary
Archaeological Notification Area
Adjacent to Ferring Conservation Area boundary

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

TELDM1	TEL DM1 Telecommunications
TELSP1	TEL SP1 Strategic delivery of telecomms infrastructure
SDSP2	SD SP2 Built-up Area Boundary
DDM1	D DM1 Aspects of form and design quality
DSP1	D SP1 Design

QESP1	QE SP1 Quality of the Environment
HERDM1	HER DM1 Listed Buildings
HERDM2	HER DM2 Locally Listed Buildings or Structures of Character
HERDM3	HER DM3 Conservation Areas
HERSP1	HER SP1 The Historic Environment

[Ferring Neighbourhood Plan 2014 Policy 1A](#)

A Spatial Plan for the Parish

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

The policies contained within the Ferring Neighbourhood Plan are relevant in the determination of the current application.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

- (2) in dealing with an application for planning permission the authority shall have regard to -
- (a) the provisions of the development plan, so far as material to the application,
 - (aza) a post examination draft neighbourhood development plan, so far as material to the application,
 - (b) any local finance considerations, so far as material to the application, and
 - (c) any other material considerations.

The proposal is considered to fail to comply with relevant Development Plan policies in that it would result in harm to the visual amenity of the area and residential amenity of neighbouring occupiers, and there has been a failure to demonstrate that there would be an acceptable impact on nearby heritage assets.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

In all applications, the Council must take into account other material considerations. This includes the NPPF, case law and appeal decisions which have emerged over recent years. By analysis of these considerations, the following are also relevant:

- (i) Health concerns are material planning considerations. Whilst Government advice is that a planning system is not the place for determining health safeguards, Court cases and planning appeals show that public responses on the issue must be weighted in assessing the merits of a site by comparison with alternatives. This must apply to Prior Notification applications as well as applications for planning permission.
- (ii) The Planning Inspectorate consider zero health risk (or near zero risk) to be an unreasonable expectation or basis for a decision.
- (iii) An ICNIRP Certificate, confirmation compliance with guidelines for the emission of electromagnetic energy, is essential. Sites should be secure by fencing with advisory notes attached.
- (iv) Applications must include a thorough examination of alternative sites; this information must be included in the submitted information for public consultation.
- (v) Government best practice advice to applicants expects pre-application consultation with organisations such as schools. The Council can look for evidence that this has happened.

CONCLUSIONS

KEY ISSUES:

The key issues in the determination of this application are as follows;

- Principle of development.
- Visual amenity impact.
- Heritage impact.
- Residential amenity impact.
- Highways impact.

PRINCIPLE -

The site is located within the Built-Up Area Boundary, where new development should be focussed, according to Arun Local Plan (ALP) policy SD SP2 and policy 1A of the Ferring Neighbourhood Plan. As such, the principle of development in this location is acceptable, subject to consideration against other policies in the Local Plan.

Para 114 of the National Planning Policy Framework (NPPF) 2021 states 'Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.' Para 118 states 'Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.'

Policy TEL SP1 establishes that there is a presumption in favour of development proposals that deliver high quality communications infrastructure, subject to the criteria set out in policy TEL DM1 and other Local Plan policies. Policy TEL DM1 sets out a number of criteria for telecommunications development. This includes (a) There are no satisfactory alternative sites for telecommunications available and (b) Alternatives have been investigated, including the possibility of mast sharing and mounting the antennae

required on existing buildings or other structures.

Whilst it is acknowledged that this is an existing telecommunications equipment site which the applicant is seeking to upgrade with replacement telecommunications equipment, the application is not supported with a justification against nor properly addresses the criteria set out in policy TEL DM1. This includes no assessment being provided of whether there are more suitable alternative sites for the proposals, contrary to TEL DM1 (a). And no explanation on whether alternative options have been investigated, including; what the options would be if the mast is not increased in height (for example, how many other masts may be required/what height/their location), and if this is the smallest profile and height to achieve these benefits, and this lack of information is contrary to TEL DM1 (b). In addition, the proposals fail to address and meet other criteria of policy TEL DM1, in respect of visual and residential amenity impacts, as detailed in the following sections of this report. In conclusion, the proposals do not accord with policies TEL SP1 and TEL DM1 and are therefore unacceptable.

VISUAL IMPACT -

Para 124 of the NPPF (2021) states that planning decisions "should support development that makes efficient use of land, taking into account..." amongst other things "(d) the desirability of maintaining an area's prevailing character and setting". Para 130 requires that applications for developments (b) are visually attractive as a result of good architecture and (c) are sympathetic to local character and history, including the surrounding built environment. Para 134 states "Development that is not well designed should be refused".

Policy D SP1 of the ALP states development should seek to make efficient use of land but reflect the characteristics of the site and local area. Policy D DM1 looks at aspects of form and design quality, including; character, appearance, density, scale, innovation, adaptability, residential amenity impact, trees and crime prevention.

Policy TEL DM1 sets out criteria for new telecommunications development including (c) Where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.

Whilst this is not a new site, the existing 13.8m high mast would be replaced with a new 20m high mast, which is a significant increase in height (over 6m) and cannot be described as sympathetically designed or camouflaged. The existing mast is more modest in scale and terminates just above the line of the top of the adjacent group of trees. This, and its green painted finish, means it is relatively screened and blends in within the context of the surrounding trees and greenery and is not unacceptably prominent within the street scene. The new mast, in contrast, would be an additional 6.2m in height, having a total height of 20m, and would terminate high above the tops of the surrounding trees meaning it would not be screened by nor blend into the surrounding greenery. It would also sit high above the line of the existing street lights. It would be re-sited further away from the trees further northward toward a more exposed area. As such, the new mast would be very exposed, highly visible and visually prominent within the street scene approaching northwards or southwards along Greystoke Road and also in views from Rife Way and the village green. It would appear overly tall, out of scale with surrounding built development and trees, and as an incongruous addition within the street scene and would be harmful to the visual amenity of the area.

No justification has been provided by the applicant against policy TEL DM1 for the significant increase in the height of the mast which is a concern due to the identified visual harm. As such, it is concluded the proposals would result in significant adverse harm to the character and appearance of the street scene and the visual amenity of the area, and this has not been justified against policy TEL DM1. The proposals therefore fail to comply with the NPPF, and policies D SP1, D DM1 and TEL DM1 of the Arun Local Plan.

HERITAGE IMPACT -

As part of paragraph 194 of the NPPF, Local Planning Authorities require an applicant to describe the significance of any heritage assets affected by their proposals, including any contribution made by their setting, in determining applications. Paragraph 195 of the NPPF requires the LPA to identify and assess the significance of any heritage assets affected by a proposed development. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset 'great weight' should be given to the heritage assets conservation. Para 202 states that where proposals would lead to 'less than substantial harm' to the significance of a heritage asset, this harm should be weighed against the public benefit of the proposal.

Arun Local Plan policy HER SP1 requires that development proposals must conserve or enhance the historic environment, which includes the highest protection being given for designated heritage assets including listed buildings/structures, their settings and Conservation Areas. ALP policy HER DM1 seeks to protect the significance and setting of Listed Buildings. ALP policy HER DM3 requires that development preserve or enhance the character or appearance of Conservation Areas. Policy TEL DM1 requires that telecommunications development must ensure (d) The proposal will not have an unacceptable impact upon the landscape, sites protected for nature conservation or heritage assets.

The site is within an Archaeological Notification Area. The Council's Archaeological Advisor has commented that it is unlikely that works associated with the proposal would impinge on archaeological deposits to the extent that refusal or the requirement of other mitigation measures would be justified.

The application site is very close to heritage assets, namely the Ferring Conservation Area, Listed Buildings and Locally Listed Buildings (non-designated heritage assets), which requires a careful assessment to be undertaken in accordance with the NPPF and the Planning (Listed Building and Conservation Areas) Act 1990.

The Council's Conservation Officer has provided comments, summarised as follows;

As part of paragraph 194 of the NPPF, Local Planning Authorities require an applicant to describe the significance of any heritage assets affected by their proposals, including any contribution made by their setting, in determining applications. This is normally provided in the form of a Heritage Statement i.e., one which describes the significance of the assets affected (including the contribution made by their setting), along with an assessment and understanding of the potential impact of the proposals on that significance.

The application documents do not include the required heritage information, and as a consequence, do not meet the requirements of the NPPF. This heritage information would need to have been submitted and prepared by a suitably qualified specialist. Failure to provide this information means that a thorough assessment cannot be made.

At present, it is not clear if the increased height of the mast (which appears to be a large increase in height) would be visible from within the Conservation Area, such as glimpsed views, and therefore what impact this would have on the significance of the assets identified.

In conclusion, due to a lack of information, there has been a failure to demonstrate that the proposals would have an acceptable impact on heritage assets. The proposals are therefore contrary to the NPPF, and policies HER SP1, HER DM1, HER DM3 and TEL DM1 of the Arun Local Plan.

RESIDENTIAL AMENITY IMPACT -

Para 130 (f) of the NPPF states development should have a high standard of amenity for existing and future users.

Policy D DM1 of the ALP states new development will have minimal impact to users and occupiers of nearby property and land, by avoiding significant loss of sunlight, privacy and outlook and unacceptable noise and disturbance. QE SP1 states the Council requires development contributes positively to the quality of the environment and will ensure that development does not have a significantly negative impact upon residential amenity. TEL DM1 states that telecommunications development must ensure (e) The proposal will not have an adverse effect on the amenity of local residents.

In terms of telecommunications applications, other material considerations include;

(i) Health concerns are material planning considerations. Whilst Government advice is that a planning system is not the place for determining health safeguards, Court cases and planning appeals show that public responses on the issue must be weighted in assessing the merits of a site by comparison with alternatives. This must apply to Prior Notification applications as well as applications for planning permission.

(iii) An ICNIRP Certificate, confirmation of compliance with guidelines for the emission of electromagnetic energy, is essential.

The Council's Environmental Health team have confirmed they have no adverse comments to make in respect of the proposals, but that the mast will be expected to comply with the ICNIRP guidelines. An ICNIRP Declaration Certificate has been provided with the application so the health risk is accepted as adequate.

The replacement new mast would be located further northward adjacent to the boundary fencing and closer to the rear garden of 1 Rife Way. It would be significantly taller than the existing by 6.2m with a total height of 20m. As such, given its siting and height it would result in a visually intrusive and overbearing structure in close proximity to these residential properties and gardens along Rife Way, in particular nos.1 and 3. It would also result in some overshadowing to these gardens at certain times of the year and day. It is concluded the proposals would therefore result in significant adverse impact on the residential amenity of neighbouring occupants, and this impact has not been justified against policy TEL DM1. As such, the proposals would fail to comply with the NPPF and policies D DM1, QE SP1 and TEL DM1 of the Arun Local Plan.

HIGHWAYS IMPACT -

Para. 111 of the NPPF states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The Local Highways Authority (WSCC) have been consulted and confirmed they have no objection to the proposal. They have provided comments, summarised as follows;

The site is located on Greystoke Road, an unclassified road subject to a speed restriction of 30 mph. The proposed mast and equipment cabinets are to be located within the highway boundary approximately 1.5m from the back edge of the carriageway. They are not anticipated to obstruct visibility for vehicles travelling along Greystoke Road. Greystoke Road is sided by footways in this location. Therefore, the LHA does not anticipate that this proposal would result in an obstruction to any pedestrians who may be utilising or seeking refuge within the highway boundary. The applicant will need to submit the necessary

notification to the Highway Authority independently and any traffic management would need to be agreed with WSCC Highways prior to works taking place. The LHA raises no highway safety or capacity concerns. If the Local Planning Authority is minded to grant planning consent, and informative is recommended that the applicant needs formal approval for works to the highway and to agree the required traffic management.

In conclusion, the proposals would not have an unacceptable impact on highway safety or capacity, and would therefore accord with the NPPF.

SUMMARY -

In conclusion, the proposal for the new taller mast would have a harmful adverse impact on the visual amenity of the area and the residential amenity of neighbouring occupants, and there has been a failure to demonstrate that it would have an acceptable impact on nearby heritage assets. The proposals have not been satisfactorily justified against policy TEL DM1.

As such, the proposals are recommended for refusal for the following reasons;

HUMAN RIGHTS ACT

The Council in making a decision, 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 such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (Right to respect private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

REFUSE

- 1 No assessment on whether there are more suitable alternative sites and no investigation on whether there are alternative options to the current proposals have been undertaken and/or evidenced. As such, the proposals fail to address and meet criteria (a) and (b) of policy TEL DM1 of the Arun Local Plan. The proposals for new telecommunications development is therefore unacceptable in principle in the absence of robust justification.

- 2 The new mast, by reason of its siting, scale and height, would appear as a visually prominent, incongruous and harmful addition to the street scene. The proposals would therefore result in significant adverse harm to the character and appearance of the street scene and the visual amenity of the area, and this has not been justified against policy TEL DM1. The proposals therefore fail to comply with the National Planning Policy Framework, and policies D SP1, D DM1 and TEL DM1 (c) of the Arun Local Plan.
- 3 The new mast, by reason of its siting, scale and height, would result in a visually intrusive and overbearing structure in close proximity to residential properties and gardens on Rife Way and also in some overshadowing to these residential gardens. The proposals would therefore result in significant adverse impact on the residential amenity of neighbouring occupants, and this has not been justified against policy TEL DM1. The proposals therefore fail to comply with the National Planning Policy Framework and policies D DM1, QE SP1 and TEL DM1 (e) of the Arun Local Plan.
- 4 Due to a lack of information, there has been a failure to demonstrate that the proposals would have an acceptable impact on nearby heritage assets, including the Ferring Conservation Area, Listed Buildings and Locally Listed Buildings. The proposals are therefore in direct conflict with paragraph 194 of the National Planning Policy Framework, and policies HER SP1, HER DM1, HER DM2, HER DM3 and TEL DM1 (d) of the Arun Local Plan.
- 5 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.