

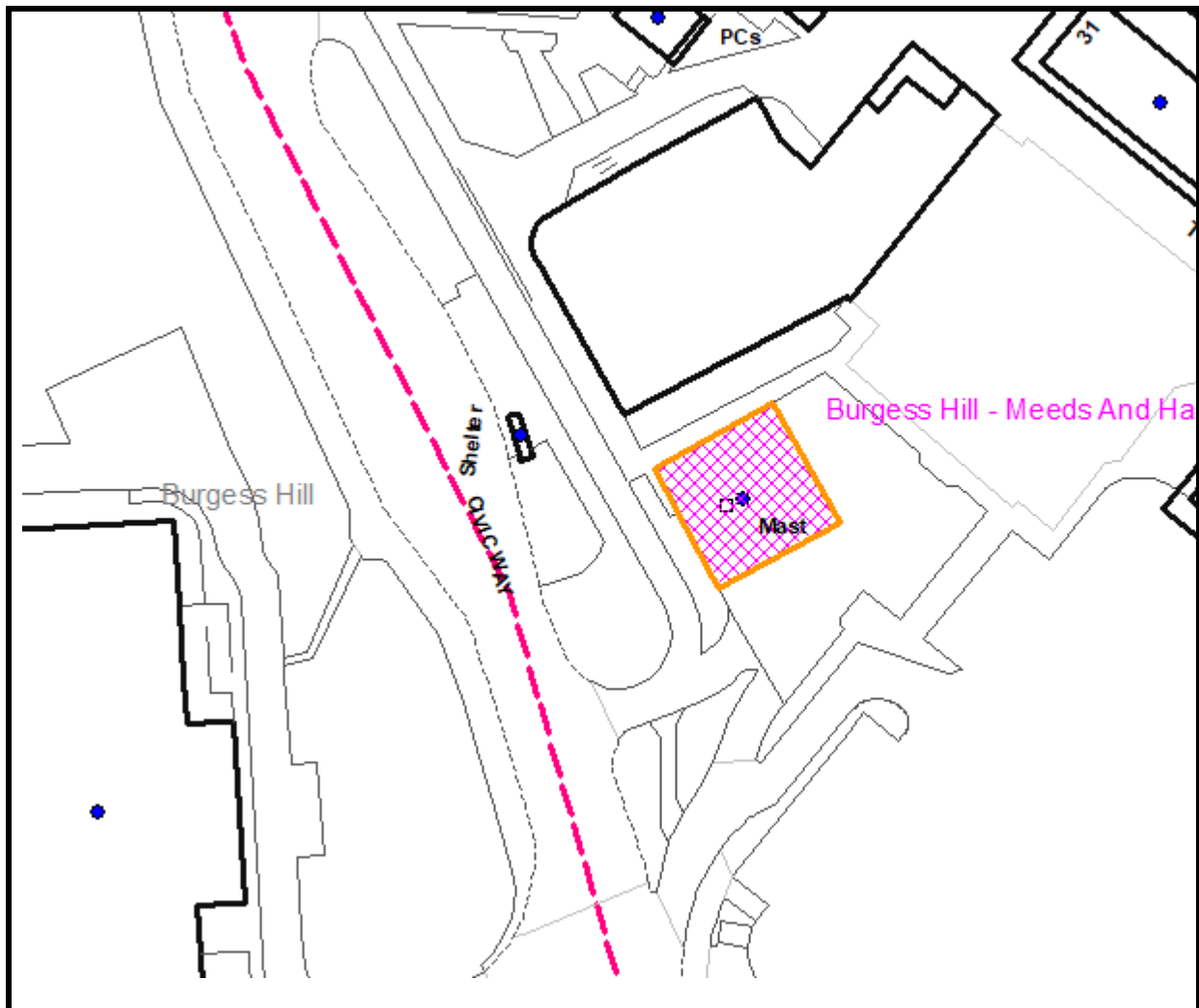
Planning Committee



Recommended for Permission

31st May 2023

DM/23/0844



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Site:	Temporary Telecommunications Mast Civic Way Burgess Hill West Sussex
Proposal:	The retention of existing temporary telecommunications base station for a further 18 months consisting of 1 No. 31.2m temporary guyed mast supporting 6 No. antennas and 4 No. dishes, along with equipment housing on temporary freestanding frames, ancillary development thereto.
Applicant:	EE Ltd
Category:	Minor Other

Target Date:	25th May 2023
Parish:	Burgess Hill
Ward Members:	Cllr Robert Eggleston / Cllr Tofojjul Hussain /
Case Officer:	Steven King

Link to Planning Documents:

<https://pa.midsussex.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RS82RAKT04L00>

1.0 Purpose of Report

1.1 To consider the recommendation of the Assistant Director for Planning and Sustainable Economy on the application for planning permission as detailed above.

2.0 Executive Summary

2.1 This application seeks planning permission for the retention of an existing temporary telecommunications base station for a further 18 months consisting of 1 No. 31.2m temporary guyed mast supporting 6 No. antennas and 4 No. dishes, along with equipment housing on temporary freestanding frames, ancillary development thereto on land adjacent to Civic way, Burgess Hill.

2.2 The application is being reported to committee as the District Council is the landowner.

2.3 Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise. Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan and the Burgess Hill Neighbourhood Plan. National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

2.4 Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan (DP), Site Allocations Development Plan Document (DPD) and the Burgess Hill Neighbourhood Plan.

2.5 The mast is proposed to be retained for a temporary period of 18 months. As such, its retention for this period would not prejudice the redevelopment of the surrounding area. As such there is no conflict with policy TC3 in the BHNP and no objection to the principle of the development.

2.6 Whilst the mast is utilitarian in appearance, it is a slender structure that does not dominate from longer distance views. It is a temporary solution and therefore it is not felt that its appearance is so harmful that it would justify a refusal of planning permission on visual grounds.

- 2.7 Policy DP23 in the DP is supportive of telecommunications development. The NPPF is also strongly supportive of telecommunications development. The proposal will provide telecommunications infrastructure in the area and all of these points weigh strongly in favour of the application.
- 2.8 The application is accompanied by a certificate that confirms the proposal would conform to ICNIRP guidelines for emissions. The NPPF states that LPAs should not set health safeguards different from the International Commission guidelines for public exposure. The NPPF is national guidance on the operation of the planning system and is therefore a material planning consideration to which significant weight should be attached. In light of this it is not considered that it would be sustainable to resist the application based on matters relating to health concerns.
- 2.9 In light of all the above it is considered that planning permission should be granted for a temporary period of 18 months. This would allow telecommunications coverage in the town centre to be maintained and would not prejudice future redevelopment of the area. The application is therefore recommended for approval.

3.0 Recommendation

- 3.1 It is recommended that planning permission be approved subject to the conditions outlined in Appendix A.

4.0 Summary of Representations

- 4.1 None received.

5.0 Town/Parish Council Observations

- 5.1 The Committed noted the application.

6.0 Introduction

- 6.1 This application seeks planning permission for the retention of an existing temporary telecommunications base station for a further 18 months consisting of 1 No. 31.2m temporary guyed mast supporting 6 No. antennas and 4 No. dishes, along with equipment housing on temporary freestanding frames, ancillary development thereto on land adjacent to Civic way, Burgess Hill.

- 6.2 The application is being reported to committee as the District Council is the landowner.

7.0 Relevant Planning History

- 7.1 The existing mast on the site was installed under permitted development rights granted by Class A(b) of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As such, a planning application was not required to be submitted to the Local Planning Authority (LPA).

8.0 Site and Surroundings

- 8.1 The application site is located to the east of Civic Way, to the north of Market Place Shopping Centre Car Park. The site currently hosts a temporary emergency electronic communications installation.

- 8.2 To the north and east of the site the land has been cleared pending redevelopment. Some 46m to the northeast is 31 The Martlets. To the southeast and south is a large shoppers car park. To the west is Civic way, with the American Express building further to the west.
- 8.3 The existing temporary mast is within a fenced compound. It is a 31.2m high temporary guyed mast supporting 6 No. antennas and 4 No. dishes, along with equipment housing on temporary freestanding frames and ancillary development. The cabinets are located next to the temporary mast, on a concrete base within the secure fenced compound.
- 8.4 The site is within the built up area of Burgess Hill as defined in the District Plan and is within The Brow Quarter as defined in the Burgess Hill Neighbourhood Plan.

9.0 Application Details

- 9.1 This application seeks planning permission for the retention of an existing temporary telecommunications base station for a further 18 months consisting of 1 No. 31.2m temporary guyed mast supporting 6 No. antennas and 4 No. dishes, along with equipment housing on temporary freestanding frames, ancillary development thereto on land adjacent to Civic way, Burgess Hill. The mast serves EE and H3G.
- 9.2 The telecommunications equipment was relocated onto the site when the Martlets office block was demolished.
- 9.3 The applicants have provided a detailed supporting statement with their application. This states in part:

'This temporary installation benefitted from permitted development rights by Class A(b) of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and an Emergency Notice was sent to the LPA.'

'These permitted development rights allow the provision of such emergency electronic communications equipment to be installed for 18 months. The 18 month period has now ended, and a permanent solution has not yet been secured. As such the applicant is looking to retain the apparatus for a further period of 18 months, in order to prevent any loss of coverage and to allow time for a permanent solution to be secured.'

There was a previous MBNL site serving the local area located at Martlet Heights, Queen Elizabeth Avenue, Burgess Hill, West Sussex, RH15 9BN which has been lost from the network due to reasons beyond the operators control. To ensure there is no loss of services in the area, the temporary installation was deployed at the application site.

Whilst this temporary installation has been in situ, works have been undertaken to secure a permanent solution. This site will look to replace the services lost at Martlet Heights. Unfortunately, a permanent solution has been identified, however we are not ready to deploy it yet. As such, we are looking to regularise the planning situation here by way of an application to retain the temporary base station for a further 18 months. Please note we will be removing the temporary installation here as soon as we are physically able once the permanent solution has been confirmed.'

10.0 Legal Framework and List of Policies

10.1 Planning legislation holds that the determination of a planning application shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

10.2 Specifically Section 70 (2) of the Town and Country Planning Act 1990 states:

'In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to application,*
- b) And local finance considerations, so far as material to the application, and*
- c) Any other material considerations.'*

10.3 Section 38(6) Planning and Compulsory Purchase Act 2004 provides:

'If regard is to be had to the development plan for the purposes 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.'

10.4 The requirement to determine applications 'in accordance with the plan' does not mean applications must comply with each and every policy, but is to be approached on the basis of the plan taken as a whole. This reflects the fact, acknowledged by the Courts, that development plans can have broad statements of policy, many of which may be mutually irreconcilable so that in a particular case one must give way to another.

10.5 Under section 38(5) of the Planning and Compulsory Purchase Act 2004 if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published.

10.6 Using this as the starting point the development plan for this part of Mid Sussex consists of the District Plan, Site Allocations DPD and the Burgess Hill Neighbourhood Plan.

10.7 National policy (which is contained in the National Planning Policy Framework and National Planning Policy Guidance) does not form part of the development plan, but is an important material consideration.

Mid Sussex District Plan

10.8 The District Plan (DP) was adopted at Full Council on 28th March 2018.

Relevant policies:

DP23 Communications Infrastructure
DP26 Character and Design

Site Allocations DPD

10.9 The SADPD was adopted on 29th June 2022. It allocates sufficient housing and employment land to meet identified needs to 2031.

10.10 There are no relevant policies.

Mid Sussex District Plan 2021-2039 Consultation Draft

10.11 The District Council is now in the process of reviewing and updating the District Plan. The new District Plan 2021 - 2039 will replace the current adopted District Plan. The draft District Plan 2021-2039 was published for public consultation on 7th November and the Regulation 18 Consultation period runs to 19th December 2022. No weight can currently be given to the plan due to the very early stage that it is at in the consultation process.

Neighbourhood Plan

10.12 The Burgess Hill Neighbourhood Plan (BHNP) was made on 28th January 2016 and so forms part of the development plan. It is therefore a material consideration with full weight.

10.3 Policy TC3 The Brow Quarter

National Planning Policy Framework (NPPF) (July 2021)

10.4 Central Government advice on telecommunications development is set out in the National Planning Policy Framework (NPPF), which was published in July 2021.

10.5 The NPPF recognises, at paragraph 114, that advanced, high quality communications infrastructure is essential for sustainable economic growth. Paragraph 117 states that applications for electronic communications development should be supported by the necessary evidence to justify the proposed development.

11.0 Assessment

11.1 It is considered that the main issues that need to be considered in the determination of this application are as follows:

- Principle of development
- The impact of the proposal on the character and appearance of the area
- Impact on telecommunications infrastructure
- Health concerns

Principle of development

11.2 The site lies within the Brow Quarter as set out in the BHNP. Policy TC3 states:

'There are opportunities to redevelop the Brow following relocation of any public and community services from this area. The development mix that could be supported includes:

- *Relocate St Wilfrids School within the Quarter.*
- *Additional open space.*
- *Redevelop part of Martlets site for a significant amount of open market housing in conjunction with New River Retail proposals.*
- *New community facilities.*
- *Improved medical/health facilities.*

- *Opportunities for new employment/hotel development.*
- *Improvements to access across Civic Way'*

11.3 As the mast would be a temporary structure it is not considered that it would prejudice the redevelopment of the surrounding area. As such there is no conflict with policy TC3 in the BHNP.

The impact of the proposal on the character and appearance of the area

11.4 Policy DP26 in the DP seeks a high standard of design in new development. The NPPF is also strongly supportive of good design.

11.5 The temporary mast is a utilitarian structure, which is clearly visible in immediate locality. However, because the mast itself is a slender structure, it does not dominate from longer distance views. It is acknowledged that in close proximity, the temporary compound and the base for the mast are utilitarian in appearance. The NPPF states in part in paragraph 126 that *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.'* It is not considered that the structures could be described as 'beautiful', but it should be recognised that it is only proposed for a temporary period whilst a permanent solution is progressed. Therefore, any harm to the character of the area from the design of the structure would be temporary. It is also acknowledged that this is an area that is in transition, with the former Martlets Hall having being demolished and a wider redevelopment of the surrounding area to the east yet to commence.

11.6 In summary, it is felt that the design of the mast is satisfactory in providing a temporary solution to the issue of achieving continuing telecommunications coverage, and in this respect it does contribute to making Burgess Hill a sustainable place. It would not be suitable as a permanent feature and to this extent, the design of the mast and compound would not fully comply with policy DP26 in the DP. However as the mast is for a temporary period of 18 months, it is not felt that any conflict with policy DP26 would be so significant that it would justify a refusal of planning permission on this ground.

Impact on telecommunications infrastructure

11.7 Policy DP23 of the District Plan states:

'The Council will encourage the incorporation of digital infrastructure including fibre to premises, in major new housing, employment and retail development.

The expansion of the electronic communication network to the towns and rural areas of the District will be supported.

When considering proposals for new telecommunication equipment the following criteria will be taken into account:

- *The location and appearance of the proposed apparatus and associated structures should seek to minimise impact on the visual amenity, character or appearance of the surrounding area. On buildings, apparatus and associated structures should be located and designed in order to seek to minimise impact to the external appearance of the host building,*

- *New telecommunication equipment should not have an unacceptable effect on sensitive areas, including areas of ecological interest, areas of landscape importance, Areas of Outstanding Natural Beauty, the South Downs National Park, archaeological sites, conservation areas or buildings of architectural or historic interest and should be sensitively designed and sited to avoid damage to the local landscape character,*
- *Preference will be for use to be made of existing sites rather than the provision of new sites.*

When considering applications for telecommunications development, regard will be given to the operational requirements of telecommunications networks and the technical limitations of the technology.'

- 11.8 The current temporary mast provides continuous network coverage in the absence of a permanent solution. There are economic and social benefits from the telecommunications network that the mast supports. The NPPF provides strong policy support for these benefits as does policy DP23 in the DP.
- 11.9 As such, the benefits from the telecommunications infrastructure proposed in this application carry significant positive weight in the planning balance. In your Officers view it would not be in the public interest to see the coverage in the town centre disrupted until a replacement facility is brought into operation.

Health Matters

- 11.10 The application is accompanied by a declaration that the proposal will meet the emissions guidelines of the International Commission on Non-Ionizing Radiation Protection (ICNIRP). The clear guidance in the NPPF and other Government publications is that if an application is accompanied by an ICNIRP certificate stating that the proposal will comply with the relevant emissions guidelines, then there should be no reason to refuse an application on health grounds.
- 11.11 Paragraph 118 of the NPPF 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.'*
- 11.12 Given the very clear Government advice given to LPAs on health matters relating to telecommunications development, there are no sustainable grounds to resist this application on health concerns.

12.0 Conclusion

- 12.1 To summarise, planning law states that planning applications should be determined in accordance with the development plan unless material planning considerations indicate otherwise. The 'in accordance' determination means the development plan when read as a whole, it is not the case that a planning application must comply with each and every policy in the development plan to comply with the development plan when read as a whole.
- 12.2 The mast is proposed to be retained for a temporary period of 18 months. As such, its retention for this period would not prejudice the redevelopment of the

surrounding area. As such there is no conflict with policy TC3 in the BHNP and no objection to the principle of the development.

- 12.3 Whilst the mast is utilitarian in appearance, it is a slender structure that does not dominate from longer distance views. It is a temporary solution and therefore it is not felt that its appearance is so harmful that it would justify a refusal of planning permission on visual grounds.
- 12.4 Policy DP23 in the DP is supportive of telecommunications development. The NPPF is also strongly supportive of telecommunications development. The proposal will provide telecommunications infrastructure in the area and all of these points weigh strongly in favour of the application.
- 12.5 The application is accompanied by a certificate that confirms the proposal would conform to ICNIRP guidelines for emissions. The NPPF states that LPAs should not set health safeguards different from the International Commission guidelines for public exposure. The NPPF is national guidance on the operation of the planning system and is therefore a material planning consideration to which significant weight should be attached. In light of this it is not considered that it would be sustainable to resist the application based on matters relating to health concerns.
- 12.6 In light of all the above it is considered that planning permission should be granted for a temporary period of 18 months. This would allow telecommunications coverage in the town centre to be maintained and would not prejudice future redevelopment of the area. The application is therefore recommended for approval.

APPENDIX A – RECOMMENDED CONDITIONS

1. The works hereby permitted shall be removed and the land restored to its former condition, or to a condition to be agreed in writing by the Local Planning Authority, on or before the expiration of the period ending on 31st November 2024.

Reason: In order not to prejudice consideration of future proposals for the area and to accord with Policy DP26 of the Mid Sussex District Plan 2014 - 2031.

2. **Approved Plans**

The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans Referred to in Consideration of this Application".

Reason: For the avoidance of doubt and in the interest of proper planning.

INFORMATIVES

1. In accordance with Article 35 Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Plans Referred to in Consideration of this Application

The following plans and documents were considered when making the above decision:

Plan Type	Reference	Version	Submitted Date
Location and Block Plan	MSX122-01	D	28.03.2023
Proposed Site Plan	MSX122-02	D	28.03.2023
Proposed Elevations	MSX122-03	D	28.03.2023