

Application Address	Site	Brixham United AFC (monopole Site) 16 Wall Park Road Brixham TQ5 9UE
Proposal		Replacement of existing single operator 17.3m telecommunications monopole with 20m lattice tower with 12 apertures, 4 ground based equipment cabinets, feeders, cables, associated equipment and ancillary works within existing compound.
Application Number		P/2019/1005
Applicant		MBNL
Agent		Mr George Oliver - Beacon Comms Group.
Date Application Valid		14/10/2019
Decision Due date		09/12/2019
Extension of Time Date		
Recommendation		That planning permission is granted, subject to the conditions detailed below.
Reason for Referral to Planning Committee		Number of objections received.
Planning Case Officer		Ross Wise

**Location Plan:**



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## **Site Details**

The site lies within the hardstanding areas associated with the existing football club buildings, and is accessed via a service road leading from Wall Park Road to the north east. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

The site is located on the outer limit of the South Devon AONB located within fields forming the football club which are surrounded by a predominantly residential area. The site is also located within the sustenance zone identified within the South Hams Special Area of conservation (SAC) Greater Horseshoe Bat Habitat Regulation Assessment (HRA) Guidance document.

## **Description of Development**

This planning application proposes the replacement of the existing single operator 17.3m telecommunications monopole with 20m lattice tower with 12 apertures, 4 ground based equipment cabinets, feeders, cables, associated equipment and ancillary works within existing compound.

## **Pre-Application Enquiry**

None sought.

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Brixham Peninsula Neighbourhood Plan 2012-2030 (BPNP)

### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## **Relevant Planning History**

P/2019/0049 Replacing existing antenna with 12 apertures. CLOSED - 22/01/2019

## **Summary of Representations**

The application was publicised through a site notice. 27 letters of objection have been received.

A summary of the concerns raised in objection include:

- Not in keeping with local area
- Impact on local area
- Visual impact
- Impact on wildlife.

## **Summary of Consultation Responses**

### **Torbay Council Senior Environmental Health Officer:**

No objections.

### **Brixham Town Council:**

No response received.

## **Planning Officer Assessment**

### **Key Issues/Material Considerations**

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Flood Risk and Drainage

### **1. Principle of Development**

Policy IF1 of the Local Plan supports, the introduction/installation of the most up to date, fastest telecom and other Information and Communications Technology (ICT).

Paragraph 112 of the NPPF states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being', and that 'planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)'. The NPPF states that the use of existing masts and buildings for new electronic communications capability should be encouraged. The proposal seeks to upgrade the existing site to improve connectivity and facilitate 5G technology.

The proposed development is considered acceptable in principle.

## **2. Impact on Visual Character**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy E1 of the BPNP states that development within the or impacting on the AONB must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty and must comply with the requirements of the NPPF and other statutory documents including the AONB Management Plan. In terms of policies relating to design, the BPNP only provides comments in relation to housing and is silent on the design of other forms of development. Policy SS8 of the Local plan states that all new development should have regard to its environmental setting and should positively contribute to the conservation and enhancement of the natural assets and setting of the Bay.

Within the AONB the conservation of the landscape and scenic beauty, biodiversity and geodiversity will be given great weight and afforded the highest status of protection.

The South Devon AONB Management Plan has recently been adopted by Torbay Council and covers a period from April 2019 to March 2024. The Plan provides guidance on how proposal in the AONB should be considered and their likely impacts. Annex 1 of the Plan is 'Planning for the South Devon AONB: Planning Guidance' which provides advice on conserving and enhancing the natural beauty of the AONB and prioritised the re-use of existing telecommunication installations in order to minimise potential increased landscape impact.

The site has existing telecommunications infrastructure which would be replaced with the proposed development. Objectors have raised concerns with regards to the visual impact of the proposal, the impact the proposal will have on the local area and that the proposal would not be in keeping with the local area. The existing infrastructure sets a clear precedent for telecommunications development in this location and indicates that the visual impact of such apparatus has previously been assessed and is therefore considered acceptable. The proposed 20 metre high telecommunications installation would be some 2.7 metres higher than the existing monopole, however the NPPF outlines that with regard to site selection for telecommunications apparatus consideration should be given to utilising any suitable existing structures. Furthermore,

the proposed equipment cabinets would also replace the existing equipment cabinets. This proposal is for an upgrade to the existing site and as the site has existing apparatus on site, the visual impact is not considered to be of any further detriment to the existing street scene and locality.

Given the existing situation on site with the existing telecommunications apparatus, it is considered that given the proposal's siting, scale, and design, that it would not result in unacceptable harm to the character or visual amenities of the locality. Policy IF1 of the Local Plan states that a planning condition will be employed with a planning consent to ensure that any telecommunication apparatus and associated structures that subsequently become redundant will be permanently removed from the site. The proposed development is therefore considered to be in accordance with the NPPF, Policy DE1 of the Local Plan and Policy E1 of the Brixham Peninsula Neighbourhood Plan.

### **3. Impact on Living Conditions**

Policy DE3 Development Amenity of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The application is supported by an ICNIRP (The International Commission of Non-ionizing Radiation Protection) certificate. National Planning guidance advises that: - *'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.'*

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours, in terms of their outlook, privacy, access to light, or in terms of disturbance.

The proposal is therefore considered to accord with Policy DE3 of the Local Plan.

### **4. Flood Risk and Drainage**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. As the proposed development would not result in an increase of impermeable footprint of over 20 square metres, it is not considered necessary to condition the surface water flooding.

Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the

proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

## **5. Ecology**

Policy NC1 of the Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan.

The site is also located within the sustenance zone identified within the South Hams Special Area of conservation (SAC) Greater Horseshoe Bat Habitat Regulation Assessment (HRA) Guidance document.

Concerns have been raised by objectors regarding potential impacts on bats.

The proposal has been screened in accordance with the South Hams Special Area of conservation (SAC) Greater Horseshoe Bat Habitat Regulation Assessment (HRA) Guidance document. The proposal would not Loss, damage or disturbance to a Designated Roost; would not cause loss, damage or disturbance to potential foraging Habitat; would not cause loss, damage or disturbance to a potential commuting route; would not result in increased illumination; would not result in an increased risk of collisions; would not cause loss, damage or disturbance to a "pinch point"; and would not cause loss damage or disturbance to an existing mitigation feature.

As such, there is unlikely to be a likely significant effect on Greater Horseshoe Bats and a detailed HRA is not required.

The proposal is considered to be acceptable with regards to Policy NC1 of the Local Plan and Policy E8 of the BPNP.

## **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development would result in the upgrade of an existing telecommunications site, which is favoured by the NPPF and the Development Plan.

## **Statement on Human Rights and Equalities Issues**

Human Rights Act - The development has been assessed against the provisions of

the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106: Not applicable.

CIL: The CIL liability for this development is Nil.

### **EIA/HRA**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA: Not applicable.

### **Planning Balance**

The proposed development is for the installation of a 20 metre high telecommunications Street Works pole with 9 antennas, 6 equipment cabinets and ancillary development, alongside the removal of the existing telecommunications equipment which would become redundant. The proposed development is intended to upgrade the existing telecommunications technology and to facilitate for 5G coverage. Subject to the planning condition detailed below, no unacceptable material planning harm has been identified and the proposal is in accordance with Development Plan policies.

### **Conclusions and Reasons for Decision**

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide acceptable arrangement in relation to flood risk. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, and all other material considerations.

## **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

## **Conditions**

### **Removal of Redundant Equipment**

Any of the approved telecommunications equipment which becomes redundant and ceases to be used for a period in excess of six months shall be permanently removed within a further period of three months.

Reason: In the interests of visual amenity, in accordance with Policies DE1 and IF1 of the Torbay Local Plan, and Policy E1 of the Brixham Peninsula Neighbourhood Plan.

### **Removal of Old Equipment**

All existing telecommunications equipment associated with this site, other than the single existing equipment cabinet shown as being retained shall be completely and permanently removed and the pavement surface restored within one month of the erection of the new monopole hereby approved.

Reason: In the interests of visual amenity, in accordance with Policies DE1 and IF1 of the Torbay Local Plan, and Policy E1 of the Brixham Peninsula Neighbourhood Plan.

## **Relevant Policies**

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

IF1 - Information and Communications Technology

SS8 – Natural environment

E1 – Landscape beauty and protected areas.

PNP1(i) – Surface Water