

Dot Surveying Ltd. FAO: Tom Gallivan 14 Inverleith Place Edinburgh EH3 5PZ CK Hutchison Networks (UK) Ltd. Great Binghams Mead Vastern Road Reading RG1 8DJ

Decision date: 24 February 2022

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013

A new 20m high 'slim line' streetpole with built-in cabinet and 3 No. separate equipment cabinets (colour Grey RAL7035) are to be positioned on a pavement within an industrial area.

At Proposed Telecoms Apparatus 43 Metres Northeast Of 1A West Harbour Road Edinburgh

Application No: 21/06399/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 6 December 2021, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reason for Refusal:-

1. The proposal is contrary to Scottish Planning Policy (SPP) 269-291 as it would have a detrimental impact on the Council's ability to facilitate travel by public transport.

2. The proposal is contrary to policy Tra 7 of the adopted Edinburgh Local Development Plan as it would prejudice the implementation of a public transport proposal.

3. The proposal is contrary to policy Tra 9 of the adopted Edinburgh Local Development Plan as it would be detrimental to a path which forms part of the core paths network.

Please see the guidance notes on our <u>decision page</u> for further information, including how to appeal or review your decision.

Drawings 01 - 07, represent the determined scheme. Full details of the application can be found on the <u>Planning and Building Standards Online Services</u>

The reason why the Council made this decision is as follows:

The proposal will not have an adverse visual impact on the character of the surrounding area or the setting of listed buildings. However, the proposal would prejudice the implementation of an identified public transport safeguard and would be detrimental to a path which forms part of the core path network. The proposal is contrary to the relevant policies within the adopted Edinburgh Local Development Plan and Scottish Planning Policy, paragraphs 269-291.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact James Allanson directly at james.allanson@edinburgh.gov.uk.

Chief Planning Officer PLACE The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

Application for Planning Permission Proposed Telecoms Apparatus 43 Metres Northeast Of , 1A West Harbour Road, Edinburgh

Proposal: A new 20m high 'slim line' streetpole with built-in cabinet and 3 No. separate equipment cabinets (colour Grey RAL7035) are to be positioned on a pavement within an industrial area.

Item – Local Delegated Decision Application Number – 21/06399/FUL Ward – B04 - Forth

Recommendation

It is recommended that this application be **Refused** subject to the details below.

Summary

The proposal will not have an adverse visual impact on the character of the surrounding area or the setting of listed buildings. However, the proposal would prejudice the implementation of an identified public transport safeguard and would be detrimental to a path which forms part of the core path network. The proposal is contrary to the relevant policies within the adopted Edinburgh Local Development Plan and Scottish Planning Policy, paragraphs 269-291.

SECTION A – Application Background

Site Description

The site comprises a section of shared pavement/cycleway situated on the northern side of Western Harbour Road. The surrounding area has a mixed industrial and residential character and consists of warehouses, historical tenements and modern build flats.

Description Of The Proposal

The proposal seeks planning permission for the installation of a 20 metre high ground based mast and associated cabinets on the site.

Supporting Information

ICNIRP MOBILE UK BRIEFING NOTE: 5G AND HEALTH SUPPORTING INFORMATION

Relevant Site History

No relevant site history.

Consultation Engagement

Transportation Planning

Publicity and Public Engagement

Date of Neighbour Notification: 24 February 2022 Date of Advertisement: 7 January 2022 Date of Site Notice: 7 January 2022 Number of Contributors: 17

Section B - Assessment

Determining Issues

This report will consider the proposed development under Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

• the Scottish Planning Policy presumption in favour of sustainable development, which is a significant material consideration due to the development plan being over 5 years old;

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

To address these determining issues, it needs to be considered whether:

a) The proposals comply with the development plan?

The Development Plan comprises the Strategic and Local Development Plans. The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

• LDP Resources Policy RS 7

- LDP Environment Policies Env 3
- LDP Transport Policies Tra 7 and Tra 9

The non-statutory Guidance on Communications Infrastructure is a material consideration that is relevant when considering policy RS 7.

Public Transport Proposals and Safeguards

The Roads Authority has raised an objection to the proposal on the grounds that the proposal is within the limits of deviation of the proposed tram route.

Within the LDP, the application site is designated as being in close proximity to both the future tram route safeguard, and a future tram stop. The proposal therefore has the potential to significantly prejudice the implementation of an identified public transport proposal.

The proposal is contrary to policy Tra 7 of the local development plan.

Cycle and Footpath Network

The site is situated on a paved area which is a shared pavement/cycleway which is actively utilised by both pedestrians and cyclists, and which forms part of the Council's Core Paths Network (CEC: 6 FIRTH OF FORTH). The proposal would obstruct a section of the path and has the potential to interfere with the movement of both pedestrians and cyclists.

The proposal is contrary to policy Tra 9 of the local development plan.

Visual Impact on the Surrounding Area

The surrounding area has a mixed character which encompasses industrial units, modern build flatted developments, traditional tenements and historic Georgian buildings. The modern build flatted development situated directly to the east of the application site extends to a similar height as the proposed development, and the proposed mast will not have an adverse impact on the character and appearance of the surrounding area.

The proposal complies with policy RS 7 of the local development plan.

Setting of Listed Building

Several Category B buildings are situated directly to the south of the site including the Former Bonded Warehouse and No 1-4 Granton Square. The mast will be sited in a suitable location in respect of these buildings which will not interfere with the interpretation of their respective facades.

The proposal will not have an adverse impact on the setting of listed buildings and complies with policy Env 3 of the local development plan

Conclusion in relation to the Development Plan

The proposal complies with policies RS7 and Env 3 of the development plan. However, the proposal is contrary to policies Tra 7 and Tra 9.

b) There are any other material considerations which must be addressed?

The following material planning considerations have been identified

Legislative Considerations

This application constitutes an application for planning permission under the Town and Country Planning (Scoland) Act 1997 (as amended). The applicant has stated that their justification for the submission of a planning application was due to the proximity of category B listed buildings to the application site, and a belief that this would exclude the proposal from being considered permitted development under Class 67 (23) of the Town and Country Planning (General Permitted Development (Scotland) Order 1992 (as amended).

Following assessment of the proposal after submission, the applicant was been advised that the proposed development is not located within any of the designations listed in Class 67 (2) of the above order which would exclude it from being considered permitted development, subject to the prior approval of the planning authority. The applicant has been invited by the planning authority to withdraw the current application and submit an application under Class 67 (23) (b) of the above order to determine whether the prior approval of the planning authority is required in respect of the siting and apperance of the development, but has elected not to do so. The applicant has requested that the planning authority determine the application which has been submitted.

The Town and County Planning (Scotland) Act 1997 (as amended) does not include any legislative provision which allows a planning authority to unilaterally withdraw a planning application without the agreement or consent of the applicant. In the absence of the agreement of the applicant to withdraw the application, the planning authority is required to determine the application as submitted.

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development.

The proposal does not accord with Paragraph 29 of SPP as it would not support the delivery of sustainable public transport infrastructure.

Emerging policy context

The Draft National Planning Framework 4 is being consulted on at present and has not been adopted. As such, little weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

material considerations

- Proposal would be detrimental to a path which forms part of the core paths network

- Proposal would have an adverse impact on the visual amenity of neighbouring residents

- Proposal would have an adverse impact on the character and appearance of the surrounding area

- Proposal would have an adverse impact on the setting of listed buildings.

non-material considerations

- Proposal will have adverse impacts on the health of neighbouring residents - Matters relating to the health standards of telecommunications infrastructure are not regulated by the planning system and are covered under separate legislation. The operator has submitted an ICNIRP declaration with the application.

-Proposal will have a negative impact on property value - The planning authority cannot consider the impact of a proposal on private property values.

-Private industry database used to select a location for a mast.

Conclusion in relation to identified material considerations

The proposal does not accord with paragraph 29 of Scottish Planning Policy.

Overall conclusion

The proposal will not have an adverse visual impact on the character of the surrounding area or the setting of listed buildings. However, the proposal would prejudice the implementation of an identified public transport safeguard and would be detrimental to a path which forms part of the core path network. The proposal is

contrary to policies Tra 7 and Tra 9 of the adopted Edinburgh Local Development Plan and SPP paragraphs 269-291.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposal is contrary to Scottish Planning Policy (SPP) 269-291 as it would have a detrimental impact on the Council's ability to facilitate travel by public transport.

2. The proposal is contrary to policy Tra 7 of the adopted Edinburgh Local Development Plan as it would prejudice the implementation of a public transport proposal.

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Background Reading/External References

To view details of the application go to the Planning Portal

Further Information - Local Development Plan

Date Registered: 6 December 2021

Drawing Numbers/Scheme

01 - 07

Scheme 1

David Givan Chief Planning Officer PLACE The City of Edinburgh Council

Contact: James Allanson, Planning Officer E-mail:james.allanson@edinburgh.gov.uk Appendix 1

Consultations

NAME: Transport Planning COMMENT:The application should be refused. Reasons; The proposed telecoms apparatus is within the Limits of Deviation of the future Edinburgh Tram Line.

Application Summary

Application Number: 21/06399/FUL

Address: Proposed Telecoms Apparatus 43 Metres Northeast Of 1A West Harbour Road Edinburgh

Proposal: A new 20m high 'slim line' streetpole with built-in cabinet and 3 No. separate equipment cabinets (colour Grey RAL7035) are to be positioned on a pavement within an industrial area. Case Officer: James Allanson

Customer Details

Name: Mr Ross Naysmith Address: 16 Montagu Terrace Edinrbugh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: The anodyne "pavement in an industrial area" description omits the rather important facts that said industrial area is directly next to large parts of the Granton Waterfront Development Area and further is a shared-use cycle path which will form part of the main active travel corridor from one end of that Development Area to the other, tying it in to the existing NEPN via Wardie Bay. Also missing is the fact that said pavement has a grass strip running between it and the roadway one one side, and on the other side a car park and a large open area of grass mere metres away from the proposed site, any of which would provide ample space to site both the pole and all the ancillary cabinetry without obstructing the pathway at all.

As it stands this application takes space away from pedestrians and cyclists on what is planned to be a future core active travel pathway, and one that is used even now by cyclists moving to and from W Harbour Road to access W Shore Road and the Esplanade beyond it.

The application should be amended with a new location in one of the aforementioned spaces that do not obstruct the path, or if that is not possible for whatever reason then the application should be refused.

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Customer Details

Name: Mr Douglas McGregor Address: 12A Hermitage Gardens Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: This is proposing erecting the pole and associated equipment on a shared use path despite there being a dividing strip available between the path and road. Removing space from shared space footways in this way should be seen as unacceptable by those considering planning applications. There are plenty of alternative locations in the area.

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Customer Details

Name: Mr Iain Ritson Address: 10/3 Warriston Rd, 10 Warriston Road Flat 3 EDINBURGH

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons: Comment:Totally object to the positioning on these cabinets. This is a shared use path, not a convenient place to site telecoms street cabinets.

Why can they not be moved 1-2 meters further north on to the grass and have new bases constructed.

Taking space away from active travel users for this reason is totally unacceptable.

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Customer Details

Name: Mr Alex Robb Address: Flat 8, 22 West Tollcross, Edinburgh EH3 9QW

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons: Comment:The Proposed Telecoms Apparatus must not block the shared use cycle route.

It should be positioned in either the verge between the cycle route and carriageway or on the green space to the rear of the cycle route.

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Customer Details

Name: Mr David McCraw Address: 7 Corslet Crescent Currie

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: The site is not a pavement, but a "Cycle track adjacent to carriageway, shared with pedestrians" to use the nomeclature of Scotgov's recently updated Cycling by Design guidance. The proposal would reduce the width of the cycle track not only below the "ideal minimum width" but even below the "absolute minimum width" specified in Cycling by Design, especially after the stipulated horizontal clearance for "a vertical feature higher than 600mm" is added on. (For clarity this requires an absolute minimum of 3m, which is not possible if the cabinets are placed at this location).

As well as breaking Scotgov's guidance, the application is contrary to the council's policies on net zero and active travel amongst others. It will complicate future maintainance and gritting operations and set a precedent for building cabinets on new high volume cycle tracks. The applicant should site the cabinets on immediately adjacent ground, either north or south of the cycle track but not impinging on it.

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Customer Details

Name: Mr Thomas Lochrie Address: 1 Granton sq Edinburgh

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons: Comment:The proposed location is not an Industrial area being 20m from my bedroom window along with tens of neighbour's bedroom windows.

I am seriously concerned with health and safety risks to my young family and partner who has just been through a breast cancer battle and still suffering mental health issues from her illness. This added stress about the impact a 5G mast could have on her health/cancer reoccurring is not what we need as she has been advised by her oncologist that she needs to manage her stress levels.

The aesthetic impact to the historic architecture of Granton Square and West Harbour Road would be very negative and risk the grade B status and values of our properties.

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Customer Details

Name: Mr Charlie Wood Address: 4 Hamilton Terrace, Edinburgh EH15 1NB

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: The proposal here is to remove space from a busy shared use (walking and wheeling) path which is unacceptable and contrary to the council's own active travel policies. The siting of this mast will reduce the width of the path (based on plans, on the narrower east side) from 3.4m to 2.5m, a reduction of 25%.

I have no objection to the siting of 5G masts in appropriate locations. In this case, directly adjacent the proposed location in the corner of the large underused car park, or on the 100m2 traffic island opposite would be fine. Both are underused/wasted space and would be far better than removing space from a busy path.

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Customer Details

Name: Mr Sean Allan Address: 9 Northfield Park Porty Sur Mer Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: A shared path is a wholly unsuitable location for these cabinets. There are several other viable and substantially more suitable locations for these cabinets nearby. Reducing the effective width of this shared path by approximately 25% is completely unacceptable.

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Customer Details

Name: Mrs Franca Macleod Address: 8 Glenorchy terrace Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: This kind of infrastructure should not be on pavements but on roads, traffic islands etc. This narrows the pavement substantially while leaving cars unaffected, counter to the councils own travel hierarchy

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Customer Details

Name: Mr Joe Tree Address: 12 Hawthornbank Place Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment:Adding this infrastructure to this shared use path would reduce its width by an unreasonable amount, significantly impinging on the path's use by pedestrians and cyclists. There are other locations very close by, including the traffic island or verge between path and road, where these items could be placed without causing such issues and I believe those should be considered instead.

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Customer Details

Name: Miss Catherine Coombs Address: 3 Warriston Terrace Edinburgh

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons:

Comment: It has been excellent to cycle more in this area. Narrowing the pavement is not a practical proposal - it is already well used and will force cyclists onto the road again.

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Customer Details

Name: Mr Ross Muller Address: 6 Clerwood Grove Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: This is stealing vital space from pedestrians. This is also against the council's own policy and ambition to encourage more people to walk and cycle in and around Edinburgh.

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Customer Details

Name: Mrs Anne Aitken Address: 27/37 Hyvot Mill Road Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: I am against this because pavement space is for people to walk on and no obstacles should be put in the way however tucked away of 'slim' it might be. Maybe you should spend your time investigating the pavement clutter in Edinburgh and way to eliminate them so people can actually walk safely in Edinburgh.

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Customer Details

Name: Mr Chris Muller Address: 6 Clerwood Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment: This is taking away space for people to use - why isn't this proposal put on the road and taking away parking space? So why should pedestrians have their space taken away from them? I am strongly against this.

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Customer Details

Name: Dr Kyle Paterson Address: 10/13 Giles Street Edinburgh

Comment Details

Commenter Type: Member of Public Stance: Customer objects to the Planning Application Comment Reasons:

Comment:Pavements are for pedestrians, and in this case, cyclists as it is a shared use path. The small amount of hard-won space for walking and cycling that does exist is constantly appropriated without any consideration of what effect this has on the Council's goal of increasing active travel. The cabinet must go somewhere that isn't in use by pedestrians. There is a huge unused traffic island nearby, put the cabinet there. Or else dig up the road and put the cabinet. In a city where there is limited space, it is the cars that should go first. Not the pedestrians. Start making the Council's vaunted so-called travel priorities more than just meaningless words.

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Customer Details

Name: Mr Peter Haigh Address: 1A Granton Square, Edinburgh EH5 1HE

Comment Details

Commenter Type: Neighbour-Residential Stance: Customer objects to the Planning Application Comment Reasons: Comment:Introduction and impact on the character of the listed buildings and neighbourhood:

Granton Square comprises listed buildings on both East and West side, listed Warehouses and Customs Building adjoin in West Harbour Road which also has the nearby former NLB lighthouse. The church and school to the south complete a collection of listed commercial and communal buildings of considerable architectural merit created by the Duke of Buccleuch as part of the Granton Harbour infrastructure from the 1830s. The newly improved cycle way and proposed tram route to Newhaven run alongside the almost unbroken line of unspoilt original mixed housing along the coast to Newhaven.

This application proposes to erect a 20m mast entirely incongruous amongst the surrounding buildings, double the height of existing street lamps and exceeding the eaves height of the listed buildings opposite (19.45 amsl) by over half a metre.

The cabinets are apparently located on the pedestrian and cycle path obstructing 25% of the available width for a distance of 6 metres at a point where the path narrows.

The mast is 34 metres from 1 and 1a Granton Square, and 30 metres from 1 West Harbour Road. These are the listed buildings closest to the mast. The EXISTING_SITE_PLAN-5238464 omits the listed buildings but see SITE_LOCATION_PLAN-5238407.

The appearance of the grey mast detracts from the prospect into the square. Grey poles and aerials do not enhance unspoilt early Victorian buildings with almost unaltered principal elevations.

The mast could be removed further west along West Harbour Road, perhaps to the entry to the shopping centre and opposite the scrap yard. In this location the comms coverage of the square would be little affected even noting this to be 5G and the backhaul to the mast the same. This is an industrial area unlike the increasingly residential square.

Hello

Can you please register this as a late objection to application 21/06399/FUL. Please put Martin McDonnell's email address down as the contact email address, and use the following address for Spokes:

SPOKES, St. Martin's Community Resource Centre 232 Dalry Road Edinburgh EH11 2JG

Thanks

James

Fro

Sent: 31 January 2022 12:35

Subject: Spokes objection to 21/06399/FUL proposed 5G mast installation on Granton shared pavement

Dear Sirs,

Spokes objects to the proposed application 21/06399/FUL since it is contrary to the City of Edinburgh Council's policy of reducing street clutter and promoting active travel and keeping active travel corridors free from obstructions - points listed below.

1. The pavement at this location is part of shared use main signposted walking and cycling leisure route as part of the Lower Granton Road promenade route. This is due for further development to the West, eventually forming a continuous coastal route from Portobello to Crammond. The mast and cabinets will cause an obstruction and reduce the space available for walking and cycling.



2. The planning application states that this is an industrial area, but fails to mention that this is a leisure route that will be developed further and the mast and cabinets will detract from the visual amenity

3. The pre-application checklist states that the council's mast register was not used as "it was felt that the industry database was a more up to date source of information". It is concerning that this statement might be true and we would like assurance that both databases reflect the council's policies as mentioned in 1. above and include details of active travel routes that especially need to be kept clear.

I apologise for missing the deadline of January 28th for online comments but trust that our objection is of significant relevance to warrant consideration.

Martin McDonnell
?