

SCRUTINY REPORT

MEETING: Overview and Scrutiny Committee

DATE: 13 June 2023

SUBJECT: Telecommunications

REPORT FROM:

Councillor Eamonn O'Brien (Leader of the Council)

CONTACT OFFICER:

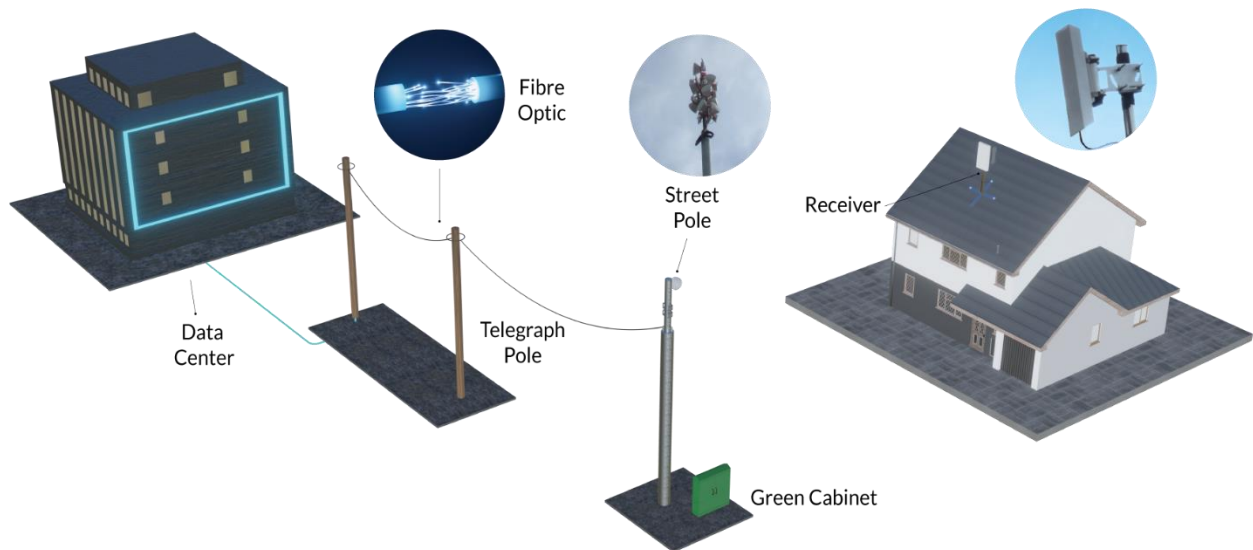
Crispian Logue (Assistant Director – Strategy, Planning & Regulation)

1.0 BACKGROUND

- 1.1 The Government is promoting the availability of high-speed broadband and this is a central part of the Government's National Infrastructure Strategy. To assist this, the Government has introduced legislation that enables the fast and cost-effective roll-out of digital technology and telecommunications.
- 1.2 There are different means of providing telecommunications to homes and businesses. One of the main ways is to provide this directly into premises via underground cabling. Cables generally run from central data facilities, along the highway and straight into properties. These then connect straight into routers and provide wireless broadband within the premises.
- 1.3 Another way is to provide this via wireless telecommunications. Signals travel from antennas to wireless devices such as phones and domestic receivers, providing wireless connectivity. The cabling to the masts that host the antenna are normally underground.
- 1.4 However, telecommunications and digital technology is always evolving, and new companies are emerging in this market. For example, one particular company is now actively installing extensive telecommunications infrastructure in a manner that differs from the two methods above. They are installing a number of poles that connect the cables above ground across specific geographical locations to a pole that will have antenna attached. Telecommunications are then provided into properties by transmitting signals from this antenna into a receiver (see figure 1).
- 1.5 The company suggests that the installation of the infrastructure in this manner costs 90% less than underground cabling and that these savings can be then passed on to the consumer. They also suggest that their model provides

significantly less disruption during installation than digging up highways and driveways.

Figure 1



- 1.6 The company currently has plans to install a significant amount of poles across the Borough (1,100+), to hold the cables overhead.
- 1.7 The Government guidance does suggest that it would be preferential for the roll out of such cabling to utilise existing infrastructure (i.e. existing poles) but this company has indicated that the existing infrastructure does not cater for their specific needs and that there are issues with weight restrictions/maintenance of these. The company that that is installing the new poles have indicated that other providers would also be able to use these once they are installed.
- 1.8 There are other companies also operating in Bury that do install overhead cabling directly into properties via existing infrastructure (such as existing telephone poles where they exist).

2.0 PLANNING & HIGHWAYS

Planning

2.1 Planning legislation and guidance for telecommunications can be complex and has been subject to various changes over the years, with amendments made nationally. However, there are three broad roles for local planning authorities in relation to this type of telecommunications infrastructure:

- **Full Planning Permission:** Like most other forms of development, full planning permission is required for certain types of telecommunication infrastructure. These applications are submitted and determined in the same manner as all other planning applications in that they are considered in principle grounds, as well as siting and appearance.

In relation to poles, full planning permission is required if:

- The poles are above 30 metres in height (on unprotected land);
 - The poles are above 25 metres in height on protected land (deemed to just be conservation areas or Sites of Special Scientific Interest).
- **Prior Approval:** Legislation permits of the principle of some telecommunication infrastructure. In such instances, the role of the local planning authority is limited to considering only the siting and appearance of the proposal. Authorities can refuse such applications on these grounds or can place planning conditions on any approval that have to be complied with. It cannot refuse prior approval applications on principle grounds. These are known as Prior Approval applications.

In relation to poles, prior approval is required if:

- Poles are above 25 metres in height in unprotected areas;
 - Poles are located in protected areas (CA' and SSSI's); and
 - Are designed and installed as monopoles for mobile telecommunications regardless of the height (e.g. 4G and 5G mobile phone masts)
- **Permitted Development:** Some forms of development are deemed to be permitted development and do not require any form of planning application to be made to the local planning authority. Traditionally, permitted development rights covered some minor development works within certain criteria like domestic extensions, changes of use and other minor alterations.

Planning legislation has evolved over time to continually relax restrictions and the now includes various telecommunications including installing some cabinets, buildings and extensions. This means that some telecommunications infrastructure is now permitted development and therefore the local planning authority does not have a role in determining either the principle or the location/appearance of certain infrastructure.

Under permitted development rights, the local planning authority does need to be *notified* of proposals and the local planning authority can *suggest* certain conditions. However, these are not enforceable and do not have to be complied with.

In relation to poles, these are deemed to be permitted development if:

- The poles are below 25 metres in height;
- They are not located in protected areas (CA's or SSSI's);
- They are not deemed to be 'masts' for the purposes of mobile telecommunications.

Highways

- 2.2 Like Planning, Highway powers have been limited through national legislation on telecommunications.
- 2.3 The Highway Authority cannot consider the principle of masts and poles and their consideration is limited to ensuring that they:
- are located in a safe location on the highway and not obstructing or causing obstruction issues for users (i.e. vehicle users, cyclists and pedestrians); and
 - are co-ordinated with other street works found within the area.
- 2.4 The installation of masts and poles do require permits from the Highway Authority and they are able to grant/refuse and/or delay these taking into account the above considerations.

3.0 ISSUES

- 3.1 As set out above, a company is currently active across the North-West in installing a significant amount of telecommunication infrastructure. The company has rolled this out across many of the districts in Lancashire and is now in the process of doing the same across Greater Manchester.
- 3.2 There has been little prior engagement with the company and the local authorities within Greater Manchester.
- 3.3 However, the local planning authority in Bury has made contact with the company to get a better understanding of their proposals. It is now understood that the company currently proposes to:
- Install around 1,100 poles to carry overhead cabling around certain geographical locations. These are proposed to be wooden poles like telegraph poles;
 - Install around a further 28 poles that will eventually host an antenna that will transmit telecommunication signals into properties. These are proposed to be metal poles;
 - The poles will range from 11 to 15 metres in height;
 - The company is required to advertise these in the locations that they are proposed, with contact details;
 - They will consider any representations to specific siting concerns flagged by the local planning authority and Members, where it is appropriate to do so; and
 - Follow the Code Systems Operator's Code of Conduct, which is overseen by OFCOM.
- 3.4 The company provided legal opinion that the infrastructure that they proposed should be treated as Permitted Development (i.e. they do not need to planning permission or prior approval from the local planning authority).
- 3.5 Initially this was queried as some of the poles will host antenna to transmit signals and therefore, they could have been considered to be masts (which do require prior approval). However, the Council has subsequently secured its

own legal opinion and this advises that the poles (both the wooden and metal ones) should be treated as Permitted Development as long as they are:

- not on protected land (Conservation Area or a Site of Special Scientific Interest): and
- on local highway land.

- 3.6 Nevertheless, whilst the proposed telecommunication does not need planning consents, the local planning and highway authority continues to liaise with the company to review the proposed locations of the poles. This is to ensure that the siting of these do not cause safety issues to users of the highway and where there may be sensitive buildings or sites adjoining or in close proximity to Conservation Areas, listed buildings or Scheduled Monuments.
- 3.7 At the time of writing, there were around ten locations where poles have been identified as being in unsuitable sites or were not deemed to be permitted development (e.g. in conservation areas) and dialogue was continuing to identify suitable alternative locations.
- 3.8 Equally, the company encourage active engagement directly with them from members of the public and Councillors where particular and quantifiable issues arise with certain locations.
- 3.9 It should be noted that the company may decide that they want to amend their initial locations of the poles and / or expand the number over time. Likewise, other providers may wish to provide these installations elsewhere in the Borough. As such, this report provides a snapshot of the current situation and this is subject to change.

4.0 CONCLUSION

- 4.1 National legislation limits the role of local planning and highway authorities when it comes to telecommunications infrastructure. The vast majority of such infrastructure is already deemed acceptable in principle and is either deemed to be permitted development or only requiring prior approval consents.
- 4.2 There was a recent debate about the limits local authorities have around such infrastructure at Full Council and a letter was subsequently been sent to the Government setting out the local concerns around the lack of control and the potential impact that this can have at the local level. A response was received from the Minister responsible which underlined the need for Councils to maintain their overview of sites, engage where necessary, encourage the public to be responsive to the companies directly and consider the role that OFCOM has in enforcing the Code of Conduct.

List of Background Papers:- Contact Details:-

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Executive Director sign off Date: _____

JET Meeting Date: _____