

REGENERATION & DEVELOPMENT SERVICES

REPORT TO PLANNING AND HIGHWAYS COMMITTEE

15 October 2013

ENFORCEMENT REPORT

UNAUTHORISED ERECTION OF A 20.9 METRE HIGH TELECOMMUNICATIONS MAST SUPPORTING THREE ANTENNAE AND TWO TRANSMISSION DISHES, AND AN ASSOCIATED GROUND BASED EQUIPMENT COMPOUND ENCLOSED BY 1.8 METRE HIGH PALISADE FENCING AND CONTAINING RADIO EQUIPMENT CABINET AND EARTH ROD AT LAND ADJACENT TO BAILEY BRIDGE, EFFINGHAM STREET SHEFFIELD S4 7YP.

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform Committee Members of a breach of planning control and to make recommendations on any further action required.

2. BACKGROUND AND BREACH

- 2.1 The site is in an allocated General Industrial Area as defined in the adopted Sheffield Unitary Development Plan (UDP). The telecommunications mast is sited on a piece of land adjacent to the River Don close to the junction of Effingham Street, Effingham Road and Sussex Road. The site is also located adjacent to the refurbished Bailey Bridge which is a footbridge over the River Don and forms part of the Five Weirs Walk footpath/cycle route which links the City Centre with Meadowhall.
- 2.2 The mast was originally erected under telecommunications emergency powers in order to continue to provide network coverage to the Burngreave Area following the decommissioning of a site at Tempered Springs Company Ltd located immediately to the south east of the site. The permitted development rights set out in Part 24 of the Town and Country (General Permitted Development) Order 1995 allows by virtue of Part (A) b "the use of land in an emergency for a period not exceeding six months to station and operate moveable telecommunication apparatus required for the replacement of unserviceable telecommunications apparatus, including the provision of a moveable structure on the land for the purposes of that use".
- 2.3 The mast has been on site since approximately the 16th April 2007 and should have been removed by the by the 9th November 2007 at the expiry of the six month period permitted by part 24 of the General Permitted Development Order. However the mast and equipment were

not removed by the developer and on the 19th June 2012 a planning application (ref:12/01093/FUL) was submitted to retain the mast and equipment, which was subsequently refused, following which a lawful development certificate (planning ref: 12/03522/LU1) was submitted which was also refused. The applicant subsequently appealed both applications which were then dismissed by the planning inspectorate.

- 2.4 Officers have visited the site and the mast and equipment remain in place. It is considered expedient that this matter is reported directly for enforcement action in order to remove the mast and associated equipment.

3. ASSESSMENT OF BREACH OF CONTROL

- 3.1 The site is located within a General Industry Area as designated in the Sheffield Unitary Development Plan.
- 3.2 The mast and associated equipment have been refused planning permission and subsequent appeals dismissed by the planning inspectorate.
- 3.3 The mast is sited adjacent to the River Don on a small area of land currently enclosed by a low brick wall. The mast is located immediately adjacent to the Five Weirs Walk footbridge. This footbridge comprises of the refurbished Bailey Bridge which was reused and resited when the five weirs walk was constructed. A ramped access from Effingham Street affords disabled and cycle access to the footpath route.
- 3.4 The Five Weirs walk is a strategic footpath which extends from Sheffield City Centre alongside the River Don through the Don Valley to Meadowhall.
- 3.5 The development is highly visible due to its siting adjacent to the River Don where the mast is afforded very little screening or backdrop from buildings. The mast's siting immediately adjacent to the back edge of the footway at the junction of three roads also highlights its prominence. It is highly visible on approach from the east and west along Effingham Street and can be seen from long distances due to its prominent positioning. Whilst this is an industrial area, where a number of commercial premises operate, the mast has not been sensitively located and it is evident that little consideration would have originally been given to the mast's design or siting due to it being installed under emergency telecommunications powers.
- 3.6 The built form in the locality does not offer any screening or real backdrop to the mast. The buildings to the north on the opposite side of the river are relatively low level structures and due to their position and separation distance from the application site they provide minimal screening. As such the mast stands as an isolated incongruous feature in the streetscene. Furthermore Effingham Street is a very wide

highway, the perception of which is further emphasised by the road's position adjacent to the River Don which highlights the wide ranging and longer distance visibility of the mast.

- 3.7 The mast stands at approximately 20.9 metres in height which is significantly taller than any buildings or structures in the immediate streetscene. Taking account of the scale of the mast, its prominent siting at the junction of three roads adjacent to the River Don and the lattice design of the installation the proposal is considered to form an unacceptably prominent and obtrusive feature that detrimentally affects the visual amenities of the locality and appearance of the streetscene.
- 3.8 Policy GE17 'Rivers and Streams' seeks to protect the setting of the City's rivers as part of the development of the Green network for the benefit of wildlife and where appropriate public access and recreation, part (c) of the policy specifically seeks to ensure that new developments are set back an appropriate distance from the banks of major rivers and streams to allow for landscaping. The stretch of the River Don immediately adjacent to the application site has been the subject of major works by the Environment Agency to clear the river of debris and overgrown vegetation in order to improve the appearance of the River, as well as enhancing the general flow and capacity of water in the river channel.
- 3.9 The mast and ground based equipment compound which includes a large equipment cabinet and palisade fencing is located immediately adjacent to the banks of the River Don and Bailey Bridge which is the first river crossing point from the City Centre of the Five Weirs Walk. Significant improvements in the form of level access, street lighting and the actual refurbishment of the Bailey Bridge as a result of the Five Weirs walk development has significantly improved the appearance and general attractiveness of the streetscene which has lead to an increase in general footfall in the vicinity from people using the Fiver Weirs Walk. Owing to the design, size, prominent siting and proximity of the mast and equipment compound to the River Don and the refurbished Bailey Bridge which form the entrance to the Five Weirs walk, the proposed development detracts from the setting and appearance of the River Don and detrimentally affects the appearance of the streetscene and is therefore considered contrary to policy IB9, BE14 and GE17 of the UDP.
- 3.10 The photograph below shows the mast and associated equipment and clearly demonstrates the detrimental visual impact of the development.



4. REPRESENTATIONS

- 4.1 No representations have been received with regard to the development.

5. ASSESSMENT OF ENFORCEMENT OPTIONS

- 5.1 Section 172 of the Town and Country Planning Act 1990 enables the Local Planning Authority to issue Enforcement Notices where there has been breach of planning control. In this case the notice would require the reinstatement of the removal of the mast, associated equipment and compound fencing and reinstatement of the ground to its original condition. There is a right of appeal to the Planning Inspectorate against the service of an Enforcement Notice. However it is considered that in light of the Planning Inspectorate's dismissal of the planning and certificate of lawful development applications the Council would be able to successfully defend any such appeal.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications arising from the recommendations of this report.

7. EQUAL OPPORTUNITY IMPLICATIONS

- 7.1 There are no equal opportunities implications arising from the recommendations of this report.

8. RECOMMENDATIONS

- 8.1 That authority be given to the Director of Regeneration & Development Services or Interim Head of Planning to take all necessary steps, including enforcement action, service of a temporary stop notice, stop notice and the institution of legal proceedings, including injunctive action, if necessary, to secure the removal of the mast, associated equipment, fencing and compound and the reinstatement of the ground to its original condition.
- 8.2 The Interim Head of Planning is delegated to vary the action authorised in order to achieve the objectives hereby confirmed, including taking action to resolve any associated breaches of planning control.

M Duffy
Interim Head of Planning

15 October 2013

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