

Committee: Planning and Licensing Committee	Date: 14 October 2020
Subject: Telecommunications Update	Wards Affected: Brentwood South, Brentwood West, and Warley
Report of: Phil Drane, Director of Planning and Economy	Public
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Summary

On 2 September 2020, the Planning and Licencing Committee requested a report for information at its October meeting setting out the responsibilities of the Mobile Network Operators and a Local Planning Authority in the provision and maintenance of telecommunications networks. This report sets out those responsibilities.

Main Report

Introduction and Background

1. Councillors will be aware of current mobile telecommunication network capacity issues in the area around Brentwood railway station. Until recently, the four national mobile network operators - Vodafone, O2, EE and Three, and in turn the smaller providers that also use their networks - all used Ewing House (Kings Road, Brentwood) as a base station to provide 2G, 3G and 4G network coverage for the station area. As part of the redevelopment of that building, all operators were served a Notice to Quit (NTQ) by the owner requiring the removal of all equipment by the end of June 2020.

2. It is understood that the base station equipment has now been switched off and removed and in the absence of a suitable site(s) to install replacement equipment, customers are experiencing a degradation in service. Some users have criticised the Council for the situation. However, local planning authorities and mobile network operators each have responsibilities in the provision and maintenance of telecommunications networks. Local planning authorities and network operators are required to work within the planning system. Network operators also need to fulfil the requirements of their licences. There are best practice documents produced and supported by mobile network operators and local planning authorities that encourage collaboration and cooperation between the sectors. In addition, operators are required to work together, for example by sharing sites and masts where possible.

3. To help the expansion of mobile phone networks, successive governments have created an evolving system of permitted development rights, a form of national planning permission. As a result, mobile network operators can replace, upgrade or expand their networks with limited involvement of local planning authorities. The permitted development system as it relates to telecommunications masts etc operates as a hybrid system - it avoids the need for full planning permission but requires developers to apply to the local authority to establish two matters - whether details of siting and appearance need to be agreed, and if so whether the details submitted are acceptable.
4. Permitted development rights recognise that there may be situations where the network operator and planning authority cannot agree on a proposal, or issues arise at short notice, and so to avoid a disruption to service the mobile network operators can install emergency equipment without any need for agreement from the local planning authority. That equipment can remain in place for up to 18 months.

Issue

5. This section sets out the responsibilities of the mobile network operators and those of the local planning authority.

Responsibilities of the Mobile Network Operators

6. Mobile Network Operators (MNOs) are required under their licences, granted under the Telecommunications Act 1984 (as amended), to provide 'good coverage' to 95% of the UK population by 2022. Good coverage is defined by Ofcom as a signal strength at which nearly all 90-second telephone calls are very likely to complete without interruption; and nearly all 4G connections will deliver a connection speed of at least 2 Mbit/s. This is fast enough to browse the internet and watch glitch-free mobile video. In addition, the Government requires the majority of the population to have access to 5G networks by 2027.
7. When a mobile network operator wishes to install equipment such as new masts or other apparatus it must first apply to the local planning authority to establish whether prior approval is required of the siting and appearance of the development. It cannot proceed with the development until the local planning authority has responded that prior approval is not required, that prior approval is given or the period for determining the application has expired.
8. It is understood that the notice to quit Ewing House was served on the MNOs on or before October 2018. Once the operators were made aware of the need to find an alternative site for a base station there would have been considerable

technical work involved in formulating a development proposal. This includes identifying network requirements, potential options, suitability of other parts of the network to alterations, and meeting legal and license requirements. The nature of the preparatory work involved appears to be the reason why some of the applications were made so close to the run-up to the June 2020 decommissioning of Ewing House.

9. However, irrespective of time pressures or the level of confidence or expectation the MNOs may have had about the acceptability of their proposals, it is also not clear why the mobile network operators did not programme the installation of the emergency equipment in good time for the end of June 2020 switch-off deadline as a safety net to avoid a degraded service. Provision of the emergency equipment should have avoided the break in service.

Responsibilities of the Local Planning Authority

10. Local planning authorities are required to respond to telecommunication permitted development prior notification applications in a timely manner and only consider matters of siting and appearance. No other matters can be considered in these applications, whatever their merits, even if raised by third parties. Brentwood Borough Council, as planning authority, met these requirements when dealing with the recent cases.
11. Deciding applications for prior notifications involves some degree of judgement. When making these judgements the local planning authority bears in mind the very great social and economic benefits these networks bring to individuals, businesses and other organisations. Events in 2020 have reaffirmed the benefits of these networks. Effectively these applications require authorities to request details for prior approval only when necessary and when considering those details balance any visual harm of the siting and appearance on the one hand with the benefits of maintaining or enhancing the telecommunications network on the other. On some occasions the benefits will outweigh the harm, in other cases the opposite will be the case. In determining the recent cases, the planning authority reached the view that the harm of the siting and appearance was not outweighed by the benefits.
12. Best practice encourages pre application discussions and both parties to fully engage in pre application discussions as well as discussing outstanding matters during the life of the applications. Unfortunately, it was not possible to reach agreement and support the proposals even considering the benefits such networks bring.
13. The Borough Council has other responsibilities, including those relating to ownership of land and buildings involved in some of the sites subject to recent

unsuccessful applications but these responsibilities are outside the planning system and therefore have played no part in planning decisions and are not covered in this report.

Further discussions

14. Officers and representatives of Mobile Broadband Network Ltd/MBNL (EE and Three) have met to discuss the issues and it is hoped that a satisfactory alternative proposal can be agreed. Cornerstone (Vodafone and O2) has appealed the refusals on their applications to the Planning Inspectorate. The outcome of the appeal is unlikely to be known for some time but will either result in the equipment being able to be carried out as applied for or require the companies to develop new proposals to address the lack of network service in the area. To date no firm information has been received from either network group regarding the timing of any installation of emergency equipment to restore network capacity.

Consultation

15. None

References to Corporate Strategy

16. The Council's Corporate Strategy "Brentwood 2025" identifies five key priorities. Two are of particular importance in this matter; *Growing the Economy* and *Protecting the Environment*. An element of Growing the Economy is enabling the growth of existing business and one example is to "Support the roll out and take up of new technologies, such as superfast broadband and 5G". The provision and enhancement of telecommunications networks is an example of a tension in achieving different corporate priorities. Officers have approached discussions on these developments to try and achieve both objectives.

Implications

Financial Implications

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17. There are no direct financial implications included within this report.

Legal Implications

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18. There are no legal implications beyond the statutory requirements of the local planning authority set out within this report.

Economic Implications

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19. Telecoms coverage, providing phone signal and data capability, is an important enabler of economic growth. At this time of difficulty through the COVID-19 pandemic, the local economy is even more dependent on mobile phone networks. It is important that the Council does what it can to support the telecoms industry alongside its requirements as local planning authority.

Equality and Diversity Implications

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20. There are no equality and diversity implications.

Health & Wellbeing Implications

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21. Maintaining good mobile phone network coverage is an important contributor to personal health and wellbeing, particularly during times where physical social contact is less possible due to the COVID-19 pandemic.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

22. Telecoms equipment, whether permanent or temporary, may involve use of Council assets. Where appropriate, the Council's Asset Team is involved in discussions.

Background Papers

- Item 460 – 20/00531/PNTEL – Masefield Court, Victoria Road, Brentwood, CM14 4EF – Planning and Licensing Committee, 8 July 2020

Appendices to this report

None