

## FACTSHEET – Children and Schools

### RELATED FACTSHEETS

- \*\* FACTSHEET – 500m setback (incl New Hampshire Comm)
- \*\* FACTSHEET – Real-life 5G case studies (Hardell, Nilsson)
- \*\* FACTSHEET – ICNIRP – Not yet written
- \*\* FACTSHEET – Locating masts and distances from schools etc

### SENSITIVE RECEPTORS

**Note: the term "sensitive receptor"** has been used in several applications around the country. Although inadequately defined in this context, it accepts that sensitivity of people varies enormously. Children, who are developing, being smaller, with thinner bones and more fluid internal structures, are a case in point. **The elderly can also be considered "sensitive".** (See later for further definition of sensitive receptors.)

#### Good arguments to use in an objection letter

As can be seen from the sample applications below, children are deemed sensitive receptors at school, and this should apply at home too. Likewise, pre-school children and pregnant women are equally vulnerable at home.

Elderly individuals are also considered "sensitive receptors" and more likely to have metal implants (e.g. knee or hip replacements). Individuals with metal implants are not covered by ICNIRP guidelines (see separate factsheet).

#### Examples of Applications and Appeals refused on grounds of "sensitive receptor"

\*\* ADUR & WORTHING AWDM/1815/21 (Nov-2021) South Of 53 Chesswood Road, Worthing – refused, then went to appeal

\*\* APP/M3835/W/22/3297928 (Dec-2022) (Chesswood Road, Broadwater, Worthing, BN11 2JW) – also refused.

\*\* BIRMINGHAM City Council (July-2023) 2023/03056/PA - Raddlebarn Road - was refused partly because it was close to a school. (A hospice was also mentioned.) See below.

#### ADUR & WORTHING AWDM/1815/21 (Nov-2021) South Of 53 Chesswood Road, Worthing

Officers Report states "It has not been demonstrated to the satisfaction of the Local Planning Authority that the proposed siting of the mast is the most suitable to provide the required telecommunications coverage in the area, as **the proximity of existing sensitive receptors has not been adequately considered** in the application submission ....."

This went to appeal and was again refused .....

#### APP/M3835/W/22/3297928 (Dec-2022) (Chesswood Road, Broadwater, Worthing, BN11 2JW)

Point 16 states "Within their evidence, the appellant states that the site maintains a reasonable distance from 'sensitive receptors'. This term is not defined but **I agree with the Council that a school should be treated as being sensitive – not least due to the level of concern a proposed mast is likely to generate amongst parents and carers.** Although the effect on health is not in and of itself a valid material consideration, I have noted the public fears about health."

#### REFUSAL OF MAST by Birmingham City Council (July-2023)

2023/03056/PA | Raddlebarn Road Streetworks, Raddlebarn Road, Selly Oak, Birmingham, B29 6HE, 5G installation – 15m street pole + cabinets

This was refused. Excerpts from the Officer's report

#### Planning Considerations

7.4. *The proposed siting of the new telecommunications equipment would be in close proximity to the grounds of Birmingham Hospice to the north and Raddlebarn Primary and Nursery School to the south. I*

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therefore consider the site is a highly sensitive location, as identified by the Birmingham Design Guide SPD. The Birmingham Design Guide states that the city has a number of locations which are most sensitive to the installation of telecommunications equipment. The grounds of education and health facilities are amongst those listed and it is stated that these locations should be avoided for such works. I do not consider that the proposal complies with this guidance given the very close proximity of the site selected for the proposed equipment to the adjacent school and hospice. Such a location is considered to be wholly unsuitable for such works.

### **Reasons for Refusal**

(3) The proposed telecommunications equipment would be inappropriately sited in a sensitive location within close proximity to the Birmingham Hospice and Raddlebarn Primary School. As such the proposal would be contrary to Policy DM2 Amenity and Policy DM16 Telecommunications of the Development Management in Birmingham DPD 2021, Birmingham Design Guide SPD 2022, Policy PG3 of the Birmingham Development Plan and the National Planning Policy Framework.

### **Birmingham Design Guide SPD - Healthy Living & Working City Manual (Sep-2022)**

[https://www.birmingham.gov.uk/downloads/file/24168/4\\_healthy\\_living\\_and\\_working\\_city\\_manual\\_-\\_september\\_2022](https://www.birmingham.gov.uk/downloads/file/24168/4_healthy_living_and_working_city_manual_-_september_2022)

TELECOMMUNICATIONS INFRASTRUCTURE - CITY NOTE LW-55

Location of telecommunications Infrastructure

#### **Most sensitive locations**

In the most sensitive areas within the city, telecommunications equipment will only be accepted if it can be demonstrated that there are no other suitable sites in more sensitive or less sensitive locations and if the equipment has been carefully designed to minimise its impact on the specific attributes or use of the site. Bespoke or innovative design solutions may be required to justify the installation of equipment in such areas. These locations are:

- Listed buildings, their curtilage and setting;
- Conservation areas and areas adjacent to a conservation area;
- Historic parks and gardens;
- Education and health institutions; and
- Others including sites in the green belt, Sites of Importance to Nature Conservation (SINCS), Sites of Local Importance for Nature Conservation (SLINCS), Sites of Special Scientific Interest (SSSI), Scheduled Ancient Monuments and other archaeological remains.

**Why is this significant?** A council has designated certain areas as sensitive areas – including education and health institution., and these are deemed inappropriate sitings for telecoms installations. If one council can recognise this, so can other councils.

HAVING SAID that, Birmingham is notoriously bad for passing applications without ICNIRP certificates submitted !!!!!

### **USEFUL STUDIES etc**

\*\* "On the Clear Evidence of the Risks to Children from Non-Ionizing Radio-frequency Radiation" Prof. Tom Butler <https://www.radiationresearch.org/articles/on-the-clear-evidence-of-the-risks-to-children-from-non-ionizing-radio-frequency-radiation-the-case-of-digital-technologies-in-the-home-classroom-and-society/>  
Useful article covering various aspects

### **\*\* Mobile Phone Base Station Tower Settings Adjacent to School Buildings: Impact on Students' Cognitive Health Meo et al, 2019**

It was identified that EMFs from MPBSTs (Mobile Phone Base Station Towers) were associated with a decrease in fine and gross motor skills and spatial working memory and attention in school adolescents. It

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was recommended that MPBSTs be installed away from thickly populated residential zones, particularly in or near school buildings. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6775553/>

### **\*\* Interview with Dr Nicholas Kardaras**

Dr Nicholas Kardaras, an addiction expert explains the risks to children from screen time and tech overuse here

<https://home.solari.com/dr-nicholas-kardaras-addiction-expert-discusses-risks-to-children-from-screen-time-and-tech-overuse/>

He mentions shrinkage of the frontal cortex when children are exposed to screens for excessive time, as well as other behavioural and health concerns. Our obsession with technology is feeding an addiction, which is nigh on impossible to cure.

### **Why children absorb more microwave radiation than adults – the consequences (Morgan et al, 2014)**

<https://www.sciencedirect.com/science/article/pii/S2213879X14000583>

From the Abstract

*Children absorb more MWR than adults because their brain tissues are more absorbent, their skulls are thinner and their relative size is smaller.*

*MWR from wireless devices has been declared a possible human carcinogen. Children are at greater risk than adults when exposed to any carcinogen. Because the average latency time between first exposure and diagnosis of a tumor can be decades, tumors induced in children may not be diagnosed until well into adulthood. The fetus is particularly vulnerable to MWR.*

*Belgium, France, India and other technologically sophisticated governments are passing laws and/or issuing warnings about children's use of wireless devices.*

## **SCHOOLS**

### **\*\* FISHERGATE [VICTORY – LEGAL ACTION SUCCESS 02-11-2021 (Brighton & Hove, UK)]**

Back on 30-July-2021, **Brighton & Hove City Council** ('BHC') granted prior approval for the installation of a 15m monopole mast just 28m (90ft) from a school, despite strong local opposition. This decision was quashed in November-2021. **(BH2021/01639 – Fishergate Terrace, Portslade)**

<https://rfinfo.co.uk/wp-content/uploads/2021/11/Consent-Order-02.11.21.pdf>

A Judicial Review proceeding was brought to quash this decision.

Brighton Council conceded on all 3 grounds in the Judicial Review Challenge including:

- “The Council unlawfully determined that the highway safety implications of the mast’s cabinets and the concerns expressed by the highways team were not a relevant consideration.”
- “The Council failed to address the health impacts of this particular proposal and to obtain adequate evidence of the assessment of the proximity to the school and the amended proposal;”
- “The Council failed to consider whether the facility could be sited on an existing building or structure”

So basically, health, safety and siting were ignored. The council was ordered to pay costs of £13K.

This has significant implications for all councils dealing with 5G applications.

Whilst the grounds for refusal state "for this particular proposal"; ALL masts have potential health implications and studies have shown that detrimental health effects are experienced within 500m.

Most importantly, it is now recognised that Local Planning Authorities must address the health impacts of 5G mast proposals beyond blind acceptance of an ICNIRP certificate.

### **\*\* 17-August-2022, Upper Tribunal requires council to secure EHCP for student who is hypersensitive to Wi-Fi signals (UK)**

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Worthy of note, the legal decision **EAM v East Sussex County Council (Special educational needs)** [2022] UKUT 193 (AAC), where the Upper Tribunal required council to secure EHCP for student who is hypersensitive to Wi-Fi signals (UK).

<https://www.localgovernmentlawyer.co.uk/education-law/394-education-news/51400-upper-tribunal-requires-council-to-secure-ehcp-for-student-who-is-hypersensitive-to-wi-fi-signals>

<https://phiremedical.org/education-health-care-plan-ehcp-awarded-aug-2022-for-uk-child-on-the-basis-of-electromagnetic-hypersensitivity-ehs/> includes statements from the parents, child and excerpts from 3 tribunal hearings.

Upper Tribunal judge Jacobs found that the child should be considered disabled by her condition under the Equality Act 2010 and that she required an Education, Health and Care Plan (EHCP).

### Thoughts

How can a council safeguard against the scenario where a planning application for a mast is granted, which is close to a school, and one or more children at that school then develop an electrosensitivity due to exposure from that mast? The fact that this case recognises electrosensitivity, a condition which affects both children and adults, means that it would be prudent to avoid masts close to residential areas too.

### **\*\* Case of MP intervening for mast approved outside SCHOOL**

This was a case in 2023 where a mast application had been submitted for a monopole close to a primary school and approved (“no prior approval required”). The residents created a stir and contacted their MP, Matt Warman, former Under Secretary of State at the Department of Digital, Culture, Media, and Sport, and very much PRO 5G. He did, however, intervene in this case by contacting ‘Three’ Chief Executive and ‘Three’ consequently committed to not going ahead with installing the mast.

(Have checked the original application and there is no mention of this result.)

B/23/0087 <https://www.boston.gov.uk/planning-application-search>

Adopted Highway Pavement Opposite Wrangle Primary School, Main Road, Wrangle, Boston PE22 9AS Application under Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 to determine if Prior Approval is required for a proposed 15m phase 9 street works monopole, 2no. equipment cabinets, associated meter cabinet and ancillary development And this is what he boasted on his FB page !!!!

**Matt Warman MP for Boston & Skegness** who was Minister of State at the Department for Digital, Culture, Media and Sport between 7 July 2022 and 7 September 2022

**Matt Warman MP posted on facebook date: 6 September 2023** ·

*“An update on 5G in Wrangle*

*Over the summer, a number of residents contacted me about their concerns over a proposed 5G Mast in Wrangle, and many more attended a public meeting I convened in the Village Hall. I have contacted those people who signed up to be kept up to date on this issue, directly.*

*In the course of that meeting, the vast majority of people expressed their desire to see improved mobile coverage in the village and across the county, and shared the ambition I pursued as a minister to see this happen rapidly. As I said then, I am confident this technology is being safely deployed in the UK, as it is being around the world as well.*

*It is, however, also the case that the positioning of masts is an emotive topic, and in order to maintain public confidence it’s important that networks get these decisions right. **I am pleased that following my intervention, the Chief Executive of Three has agreed not to proceed with the proposed mast outside Wrangle Primary School, and has now committed to exploring other more suitable sites in the local area.***

*While this may take some time, I will encourage the company to do so as rapidly as possible.*

*As always, my priority is to listen to and represent the views of my constituents and I’m glad to have been able to ensure action was taken in this case.”*

<https://www.facebook.com/WarmanforBostonSkegness/posts/pfbid0rHTuMCKBzy81S5oFZBGeAJ23snferKaqAdeZxeDP7T4zaaGMspQTg1FYBhE9ujVqI>.

#### **Some useful bits about CONSULTATIONS**

##### **NPPF 121 (previously 117)**

121. Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:

a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and

##### **DCMS Code of Practice**

Consultation and applications - SECTION

Including the following.....

73. Consultation and engagement are vital for ensuring the installation of electronic communications infrastructure is carried out in a transparent and appropriate way. The type and level of consultation and engagement required will depend on a number of factors, and should therefore be decided on a case by case basis. In general, it is expected that there will be a greater level of consultation for a new site

85. Where it is proposed to install, alter or replace a base station in the vicinity of a school or college, operators should discuss the proposed development with the relevant body of the school or college before submitting an application to the local planning authority as opposed to upgrades to an existing site. In all instances, it is important for all parties involved in the process to take a positive approach to consultation and engagement.

86. Operators should agree with the planning authority which schools and colleges should be consulted on a case by case basis, and this should form part of the consultation plan shared with the planning authority. In determining whether a school or college should be consulted, the following factors should be taken into account by operators and planning authorities:

- The proposed site is on school or college grounds;
- The site is on a main access point used by pupils or students to the school or college;
- The planning authority has requested consultation with the school or college; and,
- The school or college has requested to be included in any consultation.

87. At a minimum, the operator should send a consultation letter or email to the school or college. This should be sent by recorded delivery in the case of a letter, or an email that is saved and referenced within any subsequent application. Correspondence should be addressed to the head teacher or principal, and the chair of governors (or equivalent). The operator should wait a minimum of 14 days from the recorded delivery of the letter to allow an opportunity for the school to respond prior to submitting an application for planning permission or prior approval.

88. As per the National Planning Policy Framework, planning applications and prior approval applications should include information on the outcome of such consultations with schools and colleges.

#### **THE GUNNING PRINCIPLES**

<https://www.local.gov.uk/sites/default/files/documents/The%20Gunning%20Principles.pdf>

#### **Rules: The Gunning Principles**

They were coined by Stephen Sedley QC in a court case in 1985 relating to a school closure consultation (R v London Borough of Brent ex parte Gunning). Prior to this, very little consideration had been given to the laws of consultation. Sedley defined that a consultation is only legitimate when these four principles are met:

1. **proposals are still at a formative stage** A final decision has not yet been made, or predetermined, by the decision makers

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2. **there is sufficient information to give ‘intelligent consideration’** The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response
3. **there is adequate time for consideration and response** There must be sufficient opportunity for consultees to participate in the consultation. There is no set timeframe for consultation,<sup>1</sup> despite the widely accepted twelve-week consultation period, as the length of time given for consultee to respond can vary depending on the subject and extent of impact of the consultation
4. **‘conscientious consideration’ must be given to the consultation responses before a decision is made** Decision-makers should be able to provide evidence that they took consultation responses into account

These principles were reinforced in 2001 in the ‘Coughlan Case (R v North and East Devon Health Authority ex parte Coughlan<sup>2</sup>), which involved a health authority closure and confirmed that they applied to all consultations, and then in a Supreme Court case in 2014 (R ex parte Moseley v LB Haringey<sup>3</sup>), which endorsed the legal standing of the four principles. Since then, the Gunning Principles have formed a strong legal foundation from which the legitimacy of public consultations is assessed, and are frequently referred to as a legal basis for judicial review decisions.<sup>4</sup>

1 In some local authorities, their local voluntary Compact agreement with the third sector may specify the length of time they are required to consult for. However, in many cases, the Compact is either inactive or has been cancelled so the consultation timeframe is open to debate

2 BAILII, [England and Wales Court of Appeal \(Civil Decision\) Decisions](#), Accessed: 13 December 2016.

3 BAILII, [United Kingdom Supreme Court](#), Accessed: 13 December 2016

4 The information used to produce this document has been taken from the Law of Consultation training course provided by The Consultation Institute

**More detail is found here =** New Conversations (2.0) LGA Guide to Engagement

[https://www.local.gov.uk/sites/default/files/documents/New%20Conversations%20Guide%20refresh\\_11.pdf](https://www.local.gov.uk/sites/default/files/documents/New%20Conversations%20Guide%20refresh_11.pdf)

Can be downloaded from <https://www.local.gov.uk/publications/new-conversations-20-lga-guide-engagement>

**Suggested wording in objections letter:** What is the outcome of any consultation with schools and nurseries? This should not be just a notification / tick-box exercise.

Consultation should be a meaningful two-way process as required by NPPF (121) and the code of practice (85 and 87).

Please also refer to the Gunning Principles.

See - New Conversations (2.0) LGA Guide to Engagement

Evidence should be given that a proper consultation has been conducted.

ODD NOTES

**“sensitive receptors” (Thanks to Sharon McCormack for explanation)**

It’s used in toxicology studies, but it also comes from part 2a of the EPA 1990. A receptor is a living organism (humans, eco systems, animals, plants, birds, fish, including sensitive receptors such as babies and children [children are not exclusive there could be others, depending on the contaminant]) that maybe adversely affected by a contaminant in the environment (chemical, biological, physical, and in our case non- ionising radiation). A receptor could also include things like a ground water supply that humans pump up to the surface to use as drinking water.