

**(CCC) Application 20/05325/P16 - installation of electronic communications apparatus, Jesus Green, Chesterton Road, Cambridge CB4 3BD**

1. I understand that you are the officer having immediate responsibility for the application to place the telecoms mast on the grass tennis courts at Jesus Green. You will be aware of the concern this has excited. If you are not the proper recipient of this request, please let me know and also pass it on to the correct destination.

2. To the extent necessary please treat this as an application under the Freedom of Information Act 2000 and if appropriate draw it also to the attention of the proper officer.

3. Please would you help with my initial understanding of the basis of the application. I understand that it is made under "emergency" provisions, in the General Development Order 2015, Sch 2, Part 16 (slightly incorrectly cited in the applicant's notification of 8/12/2020).

4. While I understand the basis on which emergency permission can be granted, I am currently uncertain about the underpinning facts. Would you please –

- answer the following grouped questions, and
- disclose to me the underpinning documentation so far as it is within the planning authority's possession, custody or power.

I am content to receive answers by email and to receive electronic copies of documentation. I do not seek documentation which is properly subject to actual claims of legal professional privilege, but would be happy if you were to disclose your legal advice voluntarily.

5. Question 1. What is the nature of the asserted emergency and what caused it? When did the facts which give rise to the emergency first come to the attention of the planning authority? When (if different, and as you understand it) did those facts come to the attention of the applicant? Please disclose the documents.

6. Question 2. What is the nature of the applicant's current right to occupy or use the land consisting of or including the grass tennis courts at Jesus Green, in respect of which the application is made? Has the applicant been granted a lease or licence, or other right to occupy and use the premises? When was this granted, by whom, in what circumstances and pursuant to what legal right(s) vested in the grantor? What are the terms on which this was granted? Please disclose the documents.

7. Question 3. What steps to house the telecoms equipment, other than development of the grass tennis courts, have been adopted, considered, rejected or postponed. When were those decisions taken, and by whom? Please disclose the documents.

8. Question 4. Who (by name) has authorised use of the grass tennis courts for the relevant purpose. If authority has not yet been granted, when will that be considered? Please disclose the documents.

**Response:**

A summary of the events can be found in a news release on Cambridge City Council's website at <https://www.cambridge.gov.uk/news/2021/02/09/clarification->

on-park-street-car-park-telecommunications.

The Council has also produced an FAQ document in response to queries regarding the telecommunications structures on Jesus Green which provides further detail. This document is attached.

Further documentation can also be found on the planning register under planning reference number 20/05325/PDNOT

<https://applications.greatercambridgeplanning.org/online-applications/search.do?action=simple&searchType=Application>

#### Question 1.

I. What is the nature of the asserted emergency and what caused it? Please refer to FAQs document

II. When did the facts which give rise to the emergency first come to the attention of the planning authority? When we received the prior approval notice published on website – Industry site specific supplementary information document

III. When (if different, and as you understand it) did those facts come to the attention of the applicant? Please disclose the documents. – We don't hold this information

The Frequently Asked Questions documents provide the background to this matter.

#### Question 2.

I. What is the nature of the applicant's current right to occupy or use the land consisting of or including the grass tennis courts at Jesus Green, in respect of which the application is made? Please refer to FAQs document

II. Has the applicant been granted a lease or licence, or other right to occupy and use the premises? - Please refer to FAQs document

III. When was this granted, by whom, in what circumstances and pursuant to what legal right(s) vested in the grantor? – Please refer to the decision notice

IV. What are the terms on which this was granted? Please disclose the documents.

Please see the section headed "What powers do EE and Hutchinson 3G have to do this?" in the Frequently Asked Questions. The Council is not aware that the applicant has made an application to the Upper Tribunal yet.

#### Question 3.

I. What steps to house the telecoms equipment, other than development of the grass tennis courts, have been adopted, considered, rejected or postponed. - We

FOI Ref

**8627**

Response sent

**25 Feb 2021**

don't hold this information.

II. When were those decisions taken, and by whom? Please disclose the documents.

A previous application for a permanent site for the equipment was made to the planning authority (ref 20/02514/TELDET). Further details about some of the permanent site options and technical issues considered by EE and Hutchinson 3G can be found in their Bridge House planning Prior Notice on the Council's planning portal under reference 20/02514/TELDET in the 'Industry Site Specific Supplementary Information' document. Please also see the section headed "Alternative sites for the telecommunications equipment" in the Frequently Asked Questions.

Question 4.

I. Who (by name) has authorised use of the grass tennis courts for the relevant purpose.

II. If authority has not yet been granted, when will that be considered? Please disclose the documents

Please see the section headed "What powers do EE and Hutchinson 3G have to do this?" in the Frequently Asked Questions. The Council is not aware that the applicant has made an application to the Upper Tribunal yet. No lease or licence has been approved or granted but the Frequently Asked Questions set out basis for the applicant to apply to the Upper Tribunal and any lease or licence would need to be agreed as part of the timescales for such application.

Further queries on this matter should be directed to [foi@cambridge.gov.uk](mailto:foi@cambridge.gov.uk)

## Proposed use of Jesus Green by Telecommunications Operators – Frequently Asked Questions

### Proposed use by EE and Hutchison 3G

**Q Who is seeking to use Jesus Green for this purpose?**

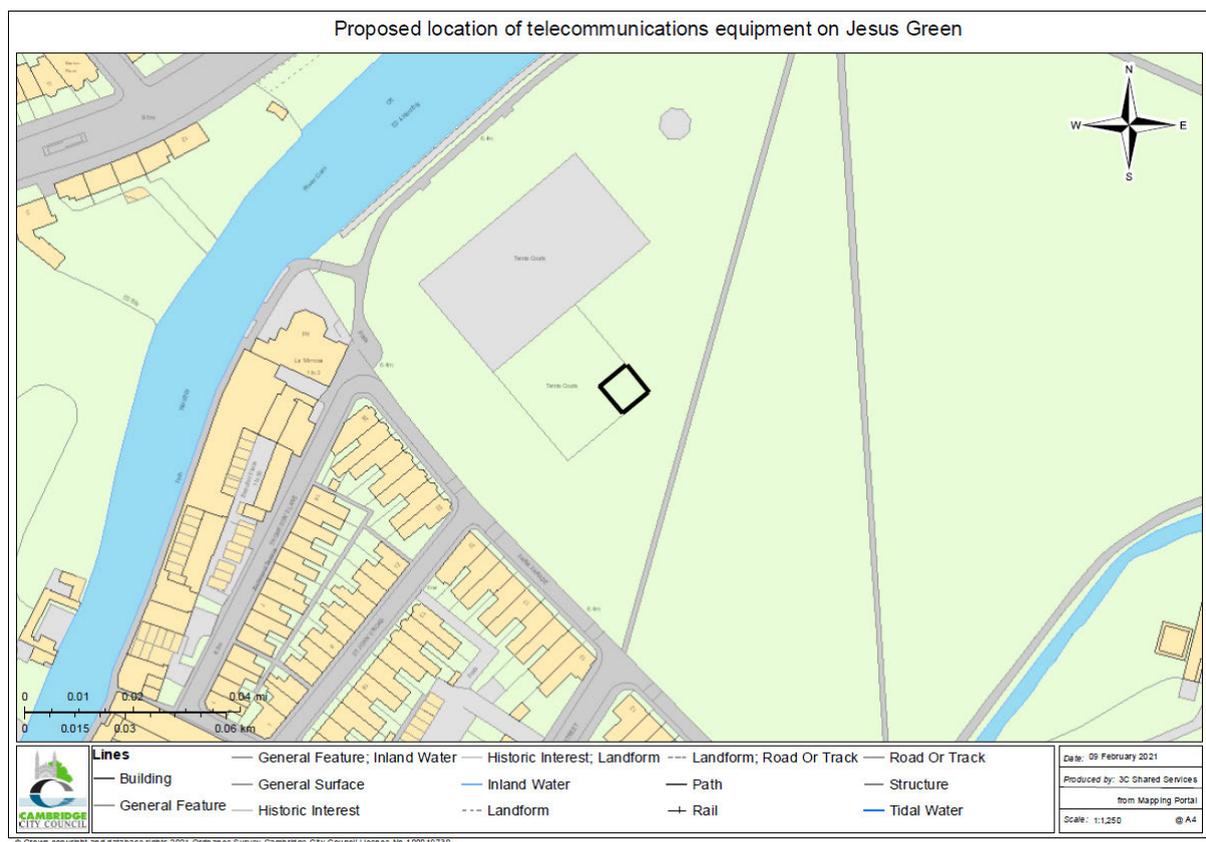
**A** *EE and Hutchinson 3G are the telecommunication operators that currently have equipment on Park Street car park and need to relocate their equipment to provide continuity of service to the city centre.*

**Q How long will the telecommunications mast be on Jesus Green if required?**

**A** *If used, the longest period would be from 27<sup>th</sup> June 2021 to 26<sup>th</sup> June 2022 with 6 weeks prior set up. EE and Hutchinson 3G have agreed they will not seek to use their powers to use Jesus Green for any requirements for a period of at least 2 years after that.*

**Q Where will the proposed mast be situated on Jesus Green?**

**A** *On one of the grass tennis courts to the north west corner of Jesus Green fronting Park Parade. Once erected, the site will be 10m by 10m as shown edged in black on plan below. This is equivalent to c0.1% of Jesus Green total area of 11.3ha.*



**Q Why is the mast the proposed height?**

**A** *Due to the mast being just outside the preferred coverage area, it needs to be above the height of the buildings and have line of sight for some of the other equipment in the City Centre.*

**Q Why is there a route across Jesus Green?**

A *Unfortunately the type of equipment cannot be brought through from Thompsons Lane or Lower Park Street or other routes in the area. This access will be required during the set-up stage and dismantling stages only. They will lay a suitable trackway appropriate for the type of vehicles being used. The Council will work with them in respect of this and the use of vehicles on Jesus Green.*

Q **Won't this ruin Jesus Green grass and paths?**

A *The telecommunications operators will be responsible for full reinstatement after completion of any works and vacating the site. We have experience of managing similar reinstatements elsewhere.*

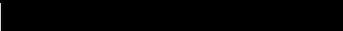
Q **If there has to be a temporary apparatus sited on Jesus Green, where else could it possibly be sited to reduce impact and mitigate removal of the grass tennis court?**

A *It may be possible to move the equipment immediately outside of the tennis court so both grass tennis courts can continue in use rather than just one. It was proposed to use one grass tennis court as this was considered to have least impact on the wider use of Jesus Green as the court can only be used at limited times throughout the year. This would also prevent the need for additional fencing and reinstatement on Jesus Green outside of the tennis court area.*

#### **How can I comment on this proposal?**

Q **If I want to enquire or comment on this, who should I contact?**

A *The telecommunications operators have provided the following contact details for all enquiries and comments concerning this:-*

, Community Relations Manager  
Email 

#### **What powers do EE and Hutchinson 3G have to do this?**

Q **What rights do telecoms companies have in regard to temporary siting of equipment and do these rights extend to Conservation areas etc?**

A *The right to station and operate temporary apparatus for a period of up to 18 months is conferred upon electronic communications code operators by paragraph A(b) of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England Order 2015 (as amended)).*

*Class A(b) permitted development is **not subject** to a requirement of planning consent or prior approval.*

*This permitted development right applies equally to locations on protected and unprotected land including Article 2(3) land such as that designated as a Conservation Area under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Apparatus deployed under Class A(b) is not subject to restrictions on the height, scale or form of apparatus deployed beyond the requirement of being temporary and movable in nature.*

Q **How and when can people object to the recent planning application for the telecommunications mast on Jesus Green?**

A *There is no planning application: this was recorded incorrectly on the planning website (ref 20/05325/P16). The telecommunications operators served an Emergency Notice on the*

*planning authority in accordance with requirements Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015. This is a notice advising of temporary use for up to 18 months and there is no consultation or action in regards to such a notice that can be taken by the planning authority.*

**Q Why can't the Council as landowner stop the use of Jesus Green for this purpose if it believes that the use is inappropriate?**

*A Telecommunications operators and equipment are covered by the Communications Act 2003 (as amended), known as the "Code", and rights under the Code take precedence over Landlord and Tenant legislation and landowner rights. The Code gives telecom operators similar rights as for utility companies as they are considered to provide essential infrastructure.*

**Q Can the Council not object?**

*A The telecommunications operators apply to the Upper Tribunal to use their powers. The Council is highly unlikely to successfully oppose this with significant costs awarded against it for an unsuccessful challenge. The council has received legal advice on its position on this issue.*

**Q Why has the Council agreed terms with EE and Hutchinson 3G?**

*A By agreeing terms for occupation of a site (for example Jesus Green (if required)) there is some negotiation such as duration of use and subsequent return use that would otherwise not be possible. If not by agreement, there is a risk of 18-month use and no restriction on return. The agreement will be endorsed by the Upper Tribunal and so legally enforceable against the telecommunications operators.*

#### **Alternative sites for the telecommunications equipment**

**Q Why hasn't the Council found another site before giving notice for EE to vacate from Park Street Car Park**

*A The Council is not responsible for finding alternative locations. This is the responsibility of EE and Hutchinson 3G. However, as the current location is on a Council owned site, the Council gave EE very early notice of its intention to develop the car park, and has worked as closely as possible with EE ever since on suggestions for relocated sites including those in Council ownership. Unfortunately, none of these met with their requirements for the relocation. EE and Hutchinson 3G have therefore conducted their own searches and options analysis of other sites. We continue to work with them in the search for a permanent location.*

**Q What is being done to avoid use of Jesus Green or minimise use?**

*A The Council has extended the use of Park Street car park for as long as possible prior to redevelopment starting on site. EE and Hutchinson 3G agree that they will endeavour to find an alternative permanent location at the earliest opportunity to possibly minimise the time spent on Jesus Green. They did have an initial plan for a permanent site which fell through, and then made a planning application for another permanent option last year. This was rejected by planning officers owing to impact on conservation area.*

**Q Why can't the telecommunications equipment currently on Park Street car park not go back on the redeveloped scheme?**

**A** Options for temporary and permanent reprovision on site have already been considered by the team. *The Park Street redevelopment will take at least 3.5 years to complete and so even with a temporary alternative, there would be an unacceptable time gap for telecommunications coverage. EE and Hutchinson 3G's preference is for a new permanent site rather than temporary site hopping. The new development at Park Street does not have the space or structural capacity for a new mast, especially as the 100% renewables provision agreed more recently has required additional plant and equipment on the roof. Any alternative design would require major structural change and would incur challenges on planning issues such as building height, rights of light and verified views which the current design has already addressed.*

**Q Why can the mast not go on the scaffolding for the Park Street car park development or use a separate freestanding tower?**

**A** *As above, the team has already previously considered this. The initial scaffolding framework will only be in place for the first 4 months during demolition and will be need to be reconfigured as construction progresses afterwards so there is no permanent provision. The development site is very tight using the whole footprint of the site with no room for a separate temporary tower. Even if there were room, there would also be health and safety implications with regard to the required use of the tower crane and another tower on the site at the height and structure required, sustained availability of power, use of a live construction site and programme implications through managing this.*

**Q Can Park Street redevelopment be delayed further to prevent the need for an interim location?**

**A** *The Council has contractual commitments with its development partner and hotel operator. We are monitoring the programme closely in regard to this issue. The Council is also trying to minimise the closure period for the car park during the works (time covering Christmas periods as requested by local businesses) and this depends upon programme length and start date. The later that the scheme starts in 2021, the more the risk increases to Christmas closures. Given the contract commitments, a later start will also add substantial cost increases of up to an extra £1.67m.*

**Q What other site options have/are EE considering?**

**A** *A permanent relocation site at Bridge House was considered but a Prior Approval Notice was refused in November 2020 (ref 20/02514/TELDET). The telecommunications operators are considering appealing so still a possibility. A previous plan for a site fell through. We have had discussions with them on other options, but do not have full disclosure as options affect other property owners and so are confidential. The Council has no right to be given this information at either a high level or detailed level. We have also discussed other Council sites with them but for a number of reasons these are not considered by them to be suitable. The physical structure and space required for a temporary or permanent location are complex so options are restricted to areas within network coverage. The ideal area is very restricted, but on a temporary basis, suppliers can slightly extend that area, but going further away from the city centre is not an option.*

*Further details about some of the permanent site options and technical issues considered by EE and Hutchinson 3G can be found in their Bridge House planning Prior Notice on the Council's planning portal under reference 20/02514/TELDET in the 'Industry Site Specific Supplementary Information' document.*

Q **Why is this only being dealt with now?**

A *The Council made the telecommunications operators aware of its development plans for Park Street many years ago but further work has depended on the definitive scope and timescales agreed more recently. Under both landlord & tenant law and telecommunications law, formal notices can only be served at appropriate times and when appropriate information is available. More detailed discussions for possible alternative permanent sites have therefore taken place over the past couple of years but at this point an approved solution has still unfortunately not been agreed.*

Q **What is the identified area of search for the telecommunications operators?**

A *Please see the map below showing approximate area.*

