Objection xxxxx

**Application heading eg** To determine if prior approval is required for a 25 metre lattice tower with 6no. antennas, 4no. dishes, 4no. equipment cabinets and ancillary works including 2.4 metre mesh panel fence.

Site address …..

Dear XXX,

**MY OBJECTIONS** re this application are:

1. Please refuse this mast as exclusion zone diagrams have not been obtained. Public exclusion zones may penetrate xxx building, if they do then pregnant women are placed at risk as when public exclusion zones are designed into buildings assumed to be only occupied by workers as they are subject to public exposure limits. Ofcom’s redefinition of what a ‘worker’ differs to ICNIRP’s definition.
2. Please refuse the application as a 500m setback distance is scientifically justified.

<https://www.gencourt.state.nh.us/statstudcomm/committees/1474/reports/5G%20final%20report.pdf>

page 100 New Hampshire Commission

1. Please refuse the application as the risks to children in the neighbourhood, and people with Electrohypersensitivity (EHS), are not sufficiently considered within the ICNIRP exposure guideline as detailed in these papers:

“*Scientific evidence invalidates health assumptions underlying the FCC and ICNIRP exposure limit determinations for radiofrequency radiation: implications for 5G*”

<https://icbe-emf.org/wp-content/uploads/2022/10/ICBE-EMF-paper-12940_2022_900_OnlinePDF_Patched-1.pdf>

‘Electrohypersensitivity (EHS) is an Environmentally-Induced Disability that Requires Immediate Attention’ (2019) [JSD18020-final.pdf (e-discoverypublication.com)](http://www.e-discoverypublication.com/wp-content/uploads/2019/03/JSD18020-final.pdf)

Davis et al ‘[Wireless technologies, non-ionizing electromagnetic fields and children: Identifying and reducing health risks’ - ScienceDirect](https://www.sciencedirect.com/science/article/pii/S1538544223000238?via%3Dihub) Disability awards and education plans have been awarded in court but the government is lagging behind acknowledging that people with EHS need low EMF environments.

1. Please screen for the risk to wildlife, including the impacts to trees and insects. ICNIRP do not set exposure limits for wildlife see additional page “Bugs Matter survey finds that UK flying insects have declined by nearly 60% in less than 20 years“ May 2022

<https://actionagainst5g.org/news/ecological-threat-of-rfr-and-5g/>

Vibeke Frøkjær Jensen DVM PhD (radiology and genetics) “The impact of RFR exposure on insects”

<https://www.frontiersin.org/articles/10.3389/fpubh.2022.1000840/full>

Low-level EMF effects on wildlife and plants: What research tells us about an ecosystem approach

**Please also refer to the EECC submission attached.**

It has been observed that local planning authorities are inconsistently applying EECC public health/environmental protection obligations, and Appendix 2 of the submission reveals the gaps in regulation currently occurring even if ICNIRP certification is accepted as satisfactorily protective.

This legal challenge, submitted to the Government Legal Services Department (GLD) on 12th September seeks to remedy the government's ambiguity regarding RFR regulation, as the government has not resourced LPA’s to perform their role as competent authorities.

Your authority is required to risk reconcile including all evidence of risk after screening to prevent avoidable harm, injury and nuisance (paragraph 1.8.9 of the challenge, set within the context of section 1.8 within the attached submission, referring to appendix 2 sections A2.1 to A2.10).

The DLUHC and the DoH have been asked to respond to the challenge by the 10th October bringing into effect immediately the following remedies:

*'required within the scope of the DLUHC and the DoH under Schedule 8 paragraph 39(5) EUWA 2018 powers'*,

being Remedies 5 and 6 (paragraph 5.2.9 of the challenge), Remedy 14 (paragraph 5.4.2 of the challenge), and Remedies 15 and 16 (paragraph 5.5.5 of the challenge).

**Remedy 5 being that,**

*'The DLUHC/DoH will have to determine whether Matt Warman's,*

*'where they are considered competent authorities',*

*is where LPA/LA public health protection obligations are crucial to the efficient spectrum management in accordance with EECC Article 45.2(h). And if so, the required public health protection provision operated by LPAs/LAs must be brought into effect immediately.*

**Remedy 6 being that,**

*'the immediate enactment of LPA/LA EECC competent authority status,*

*'where' town planning functions need to be performed under EECC spectrum management, and consequently those functions generate specific EECC related material planning considerations that LPAs/LAs are obliged to take properly into account alongside other material planning considerations that UK planning law requires LPAs/LAs to consider when an application for a new mast/antennas or contractual arrangements for small cell siting arise (Remedy 5, above)',*

*can be accomplished by the DLUHC accepting that the precedent set by the ruling in the Wells case, that,*

*'it is for the competent authorities of a Member State (the UK now being an EECC participating nation state) to take, within the sphere of their competence, all the general or particular measures necessary to ensure that projects are examined in order to determine whether they are likely to have significant effects on the environment and, if so, to ensure that they are subject to an impact assessment',*

*can be enacted by LPAs/LAs under the Town and Country Planning (Environmental Impact Assessment) 2017 Regulations (England) and its equivalent devolved powers in Scotland, Wales and Northern Ireland'.*

**Remedy 14 being that,**

*'recognition that no progress is possible on the efficient management of the spectrum until LPA/LA EECC competent authority status is confirmed, and that status should be affirmed definitively in a Departmental response to this Schedule 8, paragraph 39(5) EUWA 2018 submission'.*

**Remedy 15 requires the DLUHC's**

*'acceptance that the case R (on the application of Delena Wells) v Secretary of State for Transport, Local Government and the Regions (2004) is a comparable 'of a kind' case to the case made in this Schedule 8, paragraph 35(9) submission, where the relevant principles of European law that led to the decision on the flawed transposition of the relevant directive in the Wells case, that include the 'principle of legal certainty' (used as a defence to justify inaction by the UK government in the Wells case), concerned direct citizen rights that were under contention, which parallel the direct rights under contention in the case presented in this submission,*

And, Remedy 16 requires the DLUHC's,

*'acceptance that the deficiency is constitutionally significant, irrespective of the changing status of EU Retained law over the past four years'.*

**Irrespective of the current ambiguities and whilst the government process the submission, your authority should recognise that there are only three possible outcomes re: the siting of telecommunications equipment (outlined in paragraph 1.7.10 of the challenge, set in the context of section 1 of the attached submission):**

*'LPA/LA appraisal of established adverse health effects of mast/antennas siting and small cell deployment in accordance with the European Council Recommendation 1999/519/EC (paragraph 4, see paragraph 1.5.9, above), when applied to the incompatible and unacceptable use material planning consideration 'in situ', may result in three outcomes:*

*i) incompatible and unacceptable use may not be evidenced through established adverse health effects,*

*ii) incompatible and unacceptable use may be validated by established adverse health effects,*

*or,*

*iii) compatibility and acceptability may not be evidenced sufficiently concerning established adverse health effects'.*

Please will you confirm back to me that your authority will register its interest in the outcome of the challenge by emailing Claire Jones [Claire.jones@governmentlegal.gov.uk](mailto:Claire.jones@governmentlegal.gov.uk) representing solicitor for the Department of Levelling Up, Housing and Communities (DLUHC), quoting case number Z2309835.

Best Regards,

Xxx

**The full set of remedies sought in Section 5 of the submission expressed in the positive are summarised below.**

1 Alter the NPPF to affirm the competent authority status of Local Authorities

2 Resource LPAs/LAs to perform as regulators of RFR exposure

3 Acknowledge the primacy of the public exposure procedural standard within the EECC

4 Alter all policies and practices to reflect that material planning considerations arise from EECC public health/environmental provisions

5 Determination of whether the EECC public health provisions is ‘where’ Matt Warman considered LPAs/LAs operated as EECC competent authorities

6 Introduce Telecom specific Environmental Impact Assessments

7 Acknowledge that LPAs/LAs EECC competent authority status is made direct by EECC Recital 22

8 Acknowledge that the EECC is the only legal framework for ‘*in situ’* decision making re RFR public and environmental exposure

9 Acknowledge that LPAs/LAs multi-factorial decision-making demand cognisant, attuned, and responsive decision-making to balance policy, procedural requirements and compliance with legal obligations

10 Clarify that public/citizen direct rights arise when LPA/LA make decisions on mast/antennas siting and small cell deployment

11 Set objectives and criteria (EECC Recitals 21 and 121) for the protection of public health/environmental effects

12 Clarify significance of answers regarding the LPA/LA competent authority from Matt Warman to Wera Hobhouse (DDCMS) and lack of response by the DLUHC to Solihull MBC

13 Confirm the “weighting” of evidence as part of the EECC procedural standard, presented by DLA PIPER in August 2019

14 Confirm that the “efficient management of the spectrum” requires LPA/LA EECC competent authority status to be applied effectively

15 Confirm the Wells v Secretary of State for Transport, Local Government and the Regions (2004) is a comparable *'of a kind*' case to the case made in this Schedule 8, paragraph 35(9) submission

16 Confirm that the case is significant regarding the incomplete transposition of the EECC

17 Protect citizen rights via a complete transposition of EECC in line with transposition guidance

18 Resource LPAs/LAs to fulfil the EECC ‘public health imperative’ and distinguish between 'inevitable nuisance' and 'avoidable nuisance'

19 Provide clarity on the government's on-going responsibilities when it delegates public health/environmental regulatory functions to LPAs/LAs

20 Require LPAs/LAs to perform Telecommunication specific EIAs to fulfil EECC Recital 106 re mast siting

21 Require LPAs/LAs to perform Telecommunication specific EIAs to fulfil EECC Recital 105 re: small cell deployment