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1) JUNE 13th EMAIL TO COUNCILLOR ROPER WHO HAS SIGNED OFF THE ONEWORLD SMART CITY TRIALS PROJECT

Dear Councillor Roper,

We are presenting this notice to you (attached) as the Bath&NES Cabinet Member responsible for the progression of this project, requesting your intervention to ensure that the on-going 'statutory considerations' phase of this project is brought into effect, and to completion with the inclusion of the following obligations:

- i) the Council's enactment of public consultation concerning the public health/environmental consequences of the project made subject to objective, transparent, non-discriminatory and proportionate criteria,
 - ii) the Council's acceptance that it is a European Electronic Communications Code (EECC) competent authority for the purposes of its management of the ONE WORLD 5G Mobile Network Pilot project,
 - iii) the Department of Levelling Up, Housing and Communities, and the Department of Science, Innovation and Technology being asked by the Council to confirm Bath&NES Council's status as an EECC competent authority formally, and conclusively,
- and the completion of,
- iv) public consultations on public health/environmental considerations relating to the ONE WORLD 5G Mobile Network Pilot project should be conducted by the Bath&NES Planning Policy Team,

before any final decision is made by the Council on the proposed installation of 5G apparatus on Council assets. These expectations are set within the context of Bath&NES Council decisions made upto, and including your single member cabinet decision of the 5th February 2024 (paragraph 1.9 of the notice with supporting evidence in Section 4).

Section 3 of the Notice presents the obligations of Local Authorities as EECC competent authorities, and validation of that status (particularly concerning planning civil works (mast siting), in response to two written questions raised by Wera Hobhouse MP, answered by Matt Warman, Under Secretary of State for the Department of Digital, Culture, Media and Sport in June 2021.

We are focussing here on Bath&NES Council's EECC competent authority status and obligations concerning civil works (ie: small cell deployment) as relevant to the ONE World 5G Mobile Network Pilot Project, given the fact that LA/LPA competent authority status for both types of civil works are complementary and interconnected.

We will copy this request to Mr Godfrey, as the Council's Chief Executive, in the expectation of receiving confirmation early next week that action will be taken by you, or by him to confirm that the notice will be addressed in accordance with due processes.

It appears appropriate to seek that assurance respectfully before informing the citizens of Bath&NES that we aspire to support, and possibly to represent, of the action that we are taking, and our success in gaining appropriate and receptive engagement with the Council through your and Mr Godfrey's good offices.

Thank you in anticipation of that confirmation.

Yours sincerely,

Neil McDougall and Karen Churchill

2) JUNE 13th EMAIL TO CEO WILL GODFREY

Dear Mr Godfrey,

We have issued this email request with the attached notice to Councillor Roper as the Bath&NES Cabinet Member responsible for the progression of this project, anticipating an early response as explained in the concluding paragraphs of our email.

Could you please confer with Councillor Roper and respond as soon as possible confirming the process that Bath&NES Council will now apply to accommodate the four obligations we list below, as being accepted as formal parts of the 'statutory considerations' phase of the project.

We assume that Bath&NES will accept that the four expectations qualify as 'statutory considerations', and that there should be a relatively straightforward process that can be used to establish the value and significance of each expectation in the public interest.

Thank you in anticipation of the confirmation that you can hopefully provide.

Yours sincerely,

Neil McDougall and Karen Churchill

3) LEGAL NOTICE SUBMITTED WITH JUNE 13TH EMAILS

1. The ONE WORLD 5G Mobile Network Pilot project, Bath&NES Council commitments, and its position on public health/environmental consequences of the proposed development as stated.

1.1 The Executive Forward Plan (Reference E3501) recommended Councillor Paul Roper's approval, on or after 13 January 2024 for,

'the installation of 5G apparatus on Council assets including street furniture such as CCTV and lighting columns (paragraph 2.3)',

through a Single Member Cabinet decision of the 5 February.

see: <https://democracy.bathnes.gov.uk/mgIssueHistoryHome.aspx?IId=38190&PlanId=929&RPID=87795041> for project details as referenced

1.2 The 'Project Issue Details' document reported that,

i) 'the Business and Skills Team will ensure that local partners, business groups and residents are consulted once the grant offer letter is signed',

and that,

ii) 'a planning application will be submitted for the installation of the new mobile network, with associated consultation for local residents'.

1.3 Councillor Roper's 5 February approval, presumably, was founded upon the E3501 report that prior consideration had been given to 'Health & Safety' and 'other legal considerations', and that additional 'consultation and engagement' will be undertaken through the 'statutory considerations' phase of the project being completed as described in the 'Executive Forward Plan' to include:

i) 'a primary application ... (being) ... required for the installation of the 5G network' (paragraph 4.1),

ii) risk management as a necessary 'statutory consideration' which obviously requires completion well beyond the Business and Skills Team being,

'aware of concerns among the groups as to the safety of 5G and other mobile technologies' (paragraph 6.2), and their expectation that

iii) 'vocal opposition',
will arise but,
'by way of mitigation ONE WORD offers an excellent opportunity for the Council to promote the benefits of new applications of mobile technologies' (paragraph 6.3).

1.4 Paragraph 6.2 of the report implies that safety 'concerns' are,
'a key project risk associated with communications and perception',
rather than actual or potentially avoidable risks of harm, injury and nuisance which cannot be mitigated against through better communication, nor changes in perception.

1.5 Citizens in the 'groups' referred to, alongside other citizens, are clearly entitled on public health and environmental grounds to participate in Bath&NES decisions on the sources and the terms upon which emissions of involuntary public exposure to radio-frequency radiation (RFR) are released into the environment.

1.6 The report confirmed that,
'a planning application will be submitted for the installation of the new mobile network, with associated consultation for local residents' (paragraph 10.3).

1.7 How this connects with the paragraph 4.1 requirement relating to the 'installation of the network', is unclear.

1.8 As explained below, the 'Issues considered' listed in Councillor Roper's 5 February decision notice as including Health & Safety, and other legal considerations, were not resolved satisfactorily, if at all, as demonstrated by the subsequent issue of the application for a 'Lawful Development Certificate' (LDC) on 15 May.

1.9 The on-going 'statutory considerations' phase of the project should be brought into effect and completion with the inclusion of the following obligations:

- i) the Council's enactment of public consultation concerning the public health /environmental consequences of the project made subject to objective, transparent, non-discriminatory and proportionate criteria,
 - ii) its acceptance that it is an European Electronic Communications Code (EECC) competent authority for the purposes of its management of the ONE WORLD 5G Mobile Network Pilot project,
 - iii) the Department of Levelling Up, Housing and Communities, and the Department of Science, Innovation and Technology should be asked to confirm Bath&NES status as an EECC competent authority formally, and conclusively, and,
 - iv) public consultations on public health/environmental considerations relating to the ONE WORLD 5G Mobile Network Pilot project should be conducted by the Bath&NES Planning Policy Team (see: supporting evidence in Section 4, below),
- before any final decision is made by the Council on the proposed installation of 5G apparatus on Council assets.

1.10 Where applicable in respect to the project, the Council should apply Equality Act 2010 duties as required to promote disability equality, and Aarhus Convention obligations as required concerning public access to information, participation in decision making and by bring access to mechanisms that are designed to secure environmental justice. see https://unece.org/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf

1.11 The Aarhus 'Implementation Guide' identifies radiation explicitly as one of the factors relevant to questions of human safety (see page 56):

'for example, human health may include a wide range of diseases and health conditions that are directly or indirectly attributable to or affected by changes in environmental conditions. Human safety may include safety from harmful substances, such as chemicals, factors, such as radiation, or other natural or man-made conditions that affect human safety through manipulation of environmental elements'.

2. The application for a Legal Development Certificate (LDC) is not a primary application, nor does it trigger required consultations re: its legality, nor imperative public health/protection requirements, nor environmental protection requirements.

2.1 The installation of radio cells, antennas and associated infrastructure in connection with rollout of 5G mobile network (LDC application ref 24/10855/CLPU/Planning Portal reference PP-13059298, issued on 15 May), names the Business & Skills Team of Bath&NES Council as a 'company', and identifies the Principal Enterprise Officer as an agent acting on behalf of the applicant. With a further agent, being named as acting for Context Planning Ltd which issued a 'Statement of support'.

2.2 Under Section 3 paragraph 3.1 of that Statement, the proposal is described as qualifying under Part 12(A) of the GDPO (2015) being,

(a) 'equipment on land belonging to or maintained by them required for the purposes of any function exercised by them (the LA)',

and,

(b) 'similar structures or works required in conjunction with the operation of any public service administered by them'.

2.3 Paragraph 3.2 of the Statement reads,

'Section 33(1) of the Local Government Act 2003 outlines those bodies that are 'local authorities' for the purposes of the permitted development rights, which would include Bath&NES Council. The works themselves are likely to constitute 'development' for the purposes of the T&CPA 1990. This notwithstanding, were the Council to conclude that the operations were 'de minimis' (i.e. the operations to be so minor or inconsequential that they fall outside of the scope of the planning system) then the proposed operations would be lawful'.

2.4 The 'operations' need to be defined in terms of the service functions that the Council is required to perform.

Particularly, in relation to how the public health/environmental impacts of the proposed development are controlled.

The required control may operate through the planning system, through other regulatory obligations of the Council, or through overlapping systems of regulation.

2.5 Paragraphs 3.3, 3.4, and 3.5 of that Statement concern the terms upon which,

'radios and antennas would be defined as 'works or equipment' for the purposes of the permitted development right' (paragraph 3.3),

concluding that:

i) 'the GPDO Part 12 permitted development rights unquestionably apply to Bath&NES Council as a 'local authority' (also paragraph 3.3),

and,

ii) 'all of the proposed sites are locations which are owned 'belong' to the Council or are maintained by the Council', ... (consequently) ... 'all the physical works in connection with the project can, benefit from the exercise ... (of those rights)' (paragraph 3.4),

and that the terms of permitted development would include,

iii) 'a requirement that for the buildings, works or equipment they; (a) need to be required for the purposes of any function exercised by the local authority; or in respect of (b) to be required in connection with the operation of any public service administered by them' (paragraph 3.5).

2.6 Paragraphs 3.6, 3.7 and 3.8 of that Statement refer to UK Government policies promoted through the Department of Science, Innovation and Technology's 'UK Wireless Infrastructure Strategy' (2023), and at paragraph 3.9 by the Local Government Association.

2.7 The 'UK Wireless Infrastructure Strategy' under the Section on 'Planning Reform' reports on the intent to make, 'clarificatory amendments to Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 in relation to the definition of small cell systems and the application of constraints on the alteration or replacement of a mast. The current provisions in legislation that require operators to minimise the impact of any development on the surrounding local area as much as possible, particularly in more sensitive locations, will still apply in these cases ... (alongside action) ... where planning issues continue to act as a barrier to network deployment'.

2.8 Nonetheless, these policy measures and legislative amendment to the GDPO fail to address the unresolved controversy concerning the obligations of LAs/LPAs as competent authorities under the 'European Electronic Communications Code' (the EECC Directive 2018/61/EC), and the interrelated Directive 'On measures to reduce the cost of deploying high-speed electronic communications networks' (Directive 2014/61/EC), which updated long-standing regulatory obligations that LAs/LPAs are required to apply when granting or refusing civil works authorisations such as this ONE WORLD 5G Mobile Network Pilot telecommunication system.

2.9 These functions may override LA permitted development rights under the GDPO.

2.10 'Planning issues' relating to civil works (small cell deployment) and planned civil works (the siting of masts) have public health and environmental consequences which cannot be disregarded, nor can they be assumed to be a needless 'barrier' nor a 'project risk associated with communications and perception'.

2.11 Rights accrued to Telecom companies, and therefore to citizens in relation to the LA/LPA civil works authorisations, are extant as a consequence of the EECC being agreed by the UK on the 11th December 2018. The agreement brought updated EECC provisions/measures into direct effect, which previously been made subject to superseded Directives. Thus, the implementation of the directly effective provisions/measures was not dependant on the 21 December 2020 EECC transposition deadline.

2.12 EECC Recital 5 reads,

'this Directive creates a legal framework to ensure freedom to provide electronic communications networks and services, subject only to the conditions laid down in this Directive ... (quoting constitutional pre-Brexit limitations) ... in particular measures regarding public policy, public security and public health ... (and further pre-Brexit constitutional limitations)',

see: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972>

however, the accrued public policy and the public health imperative requirements designed into the procedural provisions of the Directive, remain intact and unchanged post-Brexit as assimilated law.

3. Relevant EU Directives under contention re: legality, and as interpreted by Matt Warman, Under Secretary of State, Department of Digital, Culture, Media and Sport, in 2021.

3.1 EECC Recital 105 applied to small cell deployment by LAs as competent authorities, continues to apply as a condition relating to the operation of telecommunication undertakings providing services connected to the proposed ONE WORLD 5G Mobile Network.

3.2 Relevant parts of Recital 105 read:

'... improving facility sharing can lower the environmental cost of deploying electronic communications infrastructure and serve public health, public security and meet town and country planning objectives. Competent authorities should be empowered to require that the undertakings which have benefitted from rights to install facilities on, over or under public or private property share such facilities or property, including physical co-location, after an appropriate period of public consultation, during which all interested parties should be given the opportunity to state their views, in the specific areas where such general interest reasons impose such sharing ... competent authorities should in particular be able to impose the sharing of network elements and associated facilities, such as ducts, conduits, masts, manholes, cabinets, antennae, towers and other supporting constructions, buildings or entries into buildings, and a better coordination of civil works on environmental or other public policy grounds ... it should be for national regulatory authorities to define rules for apportioning the costs of the facility or property sharing, to ensure that there is an appropriate reward of risk for the undertakings concerned. In light of the obligations imposed by Directive 2014/61/EU, the competent authorities, in particular, local authorities, should also establish appropriate coordination procedures, in cooperation with national regulatory authorities, with respect to public works and other appropriate public facilities or property which should be able to include procedures that ensure that interested parties have information concerning appropriate public facilities or property and ongoing and planned public works, that they are notified in a timely manner of such works, and that sharing is facilitated to the maximum extent possible'.

3.3 EECC Article 44 on the 'Co-location and sharing of network elements and associated facilities for providers of electronic communications networks', defines the legal interrelationships between the LA as a competent authority participating in the development and the authorisation process that it must lawfully manage, in respect to the balance of rights between the public and telecommunication service 'undertakers' when civic works (small cell deployments) are intended, or are required to be shared.

3.4 The most relevant parts of the Article reads:

'1. Where an operator has exercised the right under national law to install facilities on, over or under public or private property, or has taken advantage of a procedure for the expropriation or use of property, competent authorities may impose co-location and sharing of the network elements and associated facilities installed on that basis, in order to protect the environment, public health, public security or to meet town-and country-planning objectives.

Co-location or sharing of network elements and facilities installed and sharing of property may be imposed only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their views and only in the specific areas where such sharing is considered to be necessary with a view to pursuing the objectives provided in the first subparagraph. Competent authorities may impose the sharing of such facilities or property, including land, buildings, entries to buildings, building wiring, masts, antennae, towers and other supporting constructions, ducts, conduits, manholes, cabinets or measures facilitating the coordination of public works ...

2. Measures taken by a competent authority in accordance with this Article shall be objective, transparent, non-discriminatory, and proportionate. Where relevant, these measures shall be carried out in coordination with the national regulatory authorities'.

3.5 The foundations for the EECC Recital 105 authorisations are derived from the 2009 Directive 2009/140/EC, which amongst other binding legislative acts replaced EU Directive 2002/20/EC on the 'authorisation of electronic communications networks and services'.

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:337:0037:0069:EN:PDF>,

3.6 Recital 43 of the 2009 Directive read,

'the competent authorities, particularly local authorities, should also establish appropriate coordination procedures, in cooperation with national regulatory authorities, with respect to public works (ie: small cell deployment) and other appropriate public facilities or property which may include procedures that ensure that interested parties have information concerning appropriate public facilities or property and on-going and planned public works (ie: masts), that they are notified in a timely manner of such works, and that sharing is facilitated to the maximum extent possible'.

3.7 The Recital was enacted through Article 12 'Co-location and sharing of network elements and associated facilities for providers of electronic communications networks', by paragraph 5 which read,

'measures taken by a national regulatory authority in accordance with this Article shall be objective, transparent, non-discriminatory, and proportionate. Where relevant, these measures shall be carried out in coordination with local authorities'.

3.8 Directive 2014/61/EC 'On measures to reduce the cost of deploying high-speed electronic communications networks'

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0061>

still applies alongside the EECC, with Recital 8 reading that,

'a major part of those ... (presumed excessive) ... costs can be attributed to inefficiencies in the roll-out process related to the use of existing passive infrastructure (such as ducts, conduits, manholes, cabinets, poles, masts, antenna installations, towers and other supporting constructions), bottlenecks related to coordination of civil works, burdensome administrative permit granting procedures, and bottlenecks concerning in-building deployment of networks, which lead to high financial barriers, in particular in rural areas'.

3.9 Under Recital 16, the Directive provisions are required to be applied,

'without prejudice to any specific safeguard needed to ensure safety and public health, the security and integrity of the networks'.

3.10 Given that the Directive came into force ten years ago, it is not acceptable for uncertainty on how its provisions should be enacted through decisions made on 'objective, transparent, non-discriminatory and proportionate criteria', persists into the present day.

3.11 Particularly, with respect to requirements under Recital 26 concerning,

'a number of different permits concerning the deployment of electronic communications networks or new network elements may be necessary, including building, town planning, environmental and other permits, in order to protect national and Union general interests. The number of permits required for the deployment of different types of electronic communications networks and the local character of the deployment may entail the application of a variety of procedures and conditions. While preserving the right of each competent authority to be involved and maintain its decision making prerogatives in accordance with the subsidiarity principle, all relevant information on the procedures and general conditions applicable to civil works should be available ... ',
and under Recital 28 concerning,

'in order to ensure that such permits granting procedures are completed within reasonable deadlines, Member States could consider establishing several safeguards, such as tacit approval, or take measures to simplify granting procedures by, inter alia, reducing the number of permits needed to deploy electronic communications networks or by exempting certain categories of small or standardised civil works from permit granting. Authorities, at national, regional or local level, should justify any refusal to grant such permits within their competence, on the basis of objective, transparent, non-discriminatory and proportionate criteria and conditions. That should be without prejudice to any measure adopted by the Member States exempting certain elements of electronic communications networks, whether passive or active, from permit granting (28)'.

3.12 Under Recital 34,

'in line with the principle of subsidiarity ... (the Directive) ... should be without prejudice to the possibility of Member States to allocate the regulatory tasks provided for to the authorities best suited to fulfil them in accordance with the

domestic constitutional system of attribution of competences and powers and with the requirements set forth ... (in the) ... Directive'.

3.13 Under Article 2(10),

'permit' means an explicit or implicit decision of a competent authority following any procedure under which an undertaking is required to take steps in order to legally carry out building or civil engineering works'.

3.14 Under Article 7.3 the UK was obliged to,

'take the necessary measures, in order to ensure that the competent authorities grant or refuse permits within four months from the date of the receipt of a complete permit request, without prejudice to other specific deadlines or obligations laid down for the proper conduct of the procedure which are applicable to the permit granting procedure in accordance with national or Union law or of appeal proceedings ... (it) ... may provide that, exceptionally, in duly justified cases, that deadline may be extended. Any extension shall be the shortest possible in order to grant or refuse the permit. Any refusal shall be duly justified on the basis of objective, transparent, non-discriminatory and proportionate criteria'.

3.15 In a Parliamentary written question Wera Hobhouse MP for Bath asked,

'the Secretary of State for Digital, Culture, Media and Sport, with reference to the Answer of 17 November 2020 to Question 114987, whether local planning authorities that were made competent authorities under EU Directive 2014/61/EC (Directive 2014) retain that status under EU Directive 2018/1972/EC (the EECC)'.

<https://www.theyworkforyou.com/wrans/?id=2021-06-14.15347.h>

3.16 Matt Warman, then DDCMS Parliamentary Under Secretary of State, 22 June 2021 response read, 'the European Electronic Communications Code Directive updated the EU telecommunications regulatory framework, and was transposed into UK law via the Electronic Communications and Wireless Telegraphy (Amendment) (European Electronic Communications Code and EU Exit) Regulations 2020.

Whilst the Directive gave member states flexibility to assign certain functions to competent authorities, under prior EU and domestic law, Ofcom is retained as the designated telecoms national regulatory authority in the UK. Local planning authorities were not made competent authorities through EU Directive 2014/61/EC, as the government was already content that the functions in question relating to planned civil works were already in place. The transposition of the EECC would have no effect on the status of local planning authorities where they are considered competent authorities under EU Directive 2014/61/EC'.

3.17 This originating LA/LPA competent authority status is confirmed through tracing of the life span of the Directive 2009/140/EC which was,

'deleted by Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast)',

see: <https://www.legislation.gov.uk/eudr/2009/140/introduction>

3.18 EECC Recital 22,

'the tasks assigned to competent authorities by this Directive contribute to the fulfilment of broader policies in the areas of culture, employment, the environment, social cohesion and town and country planning', demonstrates the direct assignment of LA/LPA competent authority status for the enactment of Recitals 105 and 106 concerning the granting or refusal of general authorisations for civil works (small cell deployment) and planned civil works (mast siting), through administrative procedures initially, followed if and as necessary through legislation, regulations or through other provisions made during the period 11 December 2018 upto 21 December 2020 or subsequently, should the UK Government so choose.

3.19 Therefore, Matt Warman's,

'the transposition of the EECC would have no effect on the status of local planning authorities where they are considered competent authorities under EU Directive 2014/61/EC', as demonstrated at 3.16 above, is accurate as a consequence of LAs/LPAs competent authority status being derived directly from Directive 2009/140/EC, and the systems of general authorisation procedures it imposed for civil works and planned civil works which remain in effect through assimilated law post-Brexit.

3.20 The continued effect of Directive 2009/140/EC is achieved through 'infractio' as described in EECC Recital 325, which reads,

'the obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the repealed Directives. The obligation to transpose the provisions which are unchanged arises under the repealed Directives'.

4. Consequent expectations placed on Bath&NES Council as an European Electronic Communications Code (EECC) competent authority.

4.1 On receipt of this urgent public interest notice concerning its deficient management of the ONE WORLD 5G Mobile Network Pilot project, Bath&NES Council is expected to bring into the effect the following managerial obligations through the on-going 'statutory considerations' phase of the project:

- i) its enactment of public consultation concerning the public health/environmental consequences of the project made subject to objective, transparent, non-discriminatory and proportionate criteria,
- ii) its acceptance that it is an EECC competent authority for the purposes of its management of the ONE WORLD 5G Mobile Network Pilot project,
- iii) the Department of Levelling Up, Housing and Communities, and the Department of Science, Innovation and Technology, should be asked to confirm Bath&NES Council's status as an EECC competent authority formally and conclusively,
and,
- iv) public consultations on public health/environmental considerations relating to the ONE WORLD 5G Mobile Network Pilot project should be conducted by the Bath&NES Planning Policy Team working in conjunction the Council's Environmental Services, Sustainability, Health and Wellbeing Teams.

4.2 These four elements should be completed within the 'statutory considerations' phase of the project before any final decision is made by the Council on the proposed installation of 5G apparatus on Council assets.

4.3 The Council's 'Local Plan Sustainability Appraisal Scoping Report' (March 2023), identifies its use of a Health Impact Assessment framework at paragraphs 2.29 to 2.31 (page 16) which is described as a, 'practical tool which is used to assess the potential impacts of a policy, programme or project on a population'.

4.4 A health impact assessment tool for this project should be developed to apply in relation to evidence generated from public consultations, and from other sources, organised in accordance with criteria that satisfy the requirements of element i) as described in paragraph 4.1, above.

4.5 This Public Health England 'Health Impact Assessment in Spatial Planning' Guidance (October 2020) might also prove helpful:

https://assets.publishing.service.gov.uk/media/5f93024ad3bf7f35f184eb24/HIA_in_Planning_Guide_Sept2020.pdf

4.6 Given that the ONE WORLD 5G Mobile Network Pilot project is a part of a Department of Science, Innovation and Technology funded programme, it is justifiable for Bath&NES Council to operate a public consultation process that adheres closely to the national principles, as follows :

- consultation procedures should be clear and concise;
 - should have a purpose;
 - should be informative;
 - are only part of the process of engagement;
 - should last for a proportionate amount of time;
 - should be targeted;
 - should take account of the groups being consulted;
 - should be agreed before publication
 - should facilitate scrutiny
 - should have government responses published in a timely fashion
 - should not generally be launched during local or national election periods
- see:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

4) JUNE 19TH REPLY FROM COUNCILLOR ROPER CONFIRMING THE NOTICE HAS BEEN FORWARDED TO LEGAL DEPT

Dear Mr McDougall,

Thank you for your email which has been passed to our monitoring officer and legal team.

I am unable to comment further at this stage.

Yours sincerely,

Paul Roper.

5) JUNE 27^H EMAIL TO WILL GODFREY and COUNCILLOR ROPER REQUESTING A COMMITMENT TO REPLY TO SPECIFIC REQUESTS.

Dear Mr Godfrey,

Could you please provide a substantive response to the email (as below), and the notice issued to Councillor Roper (as attached) copied to you on the 13th June 2024 justifying our expectation that the on-going 'statutory considerations phase of this project is brought into effect, and to completion with the inclusion of the following obligations:

- i) the Council's enactment of public consultation concerning the public health/environmental consequences of the project made subject to objective, transparent, non-discriminatory and proportionate criteria,
 - ii) the Council's acceptance that it is a European Electronic Communications Code (EECC) competent authority for the purposes of its management of the ONE WORLD 5G Mobile Network Pilot project,
 - iii) the Department of Levelling Up, Housing and Communities, and the Department of Science, Innovation and Technology being asked by the Council to confirm Bath&NES Council's status as an EECC competent authority formally, and conclusively,
- and the completion of,
- iv) public consultations on public health/environmental considerations relating to the ONE WORLD 5G Mobile Network Pilot project should be conducted by the Bath&NES Planning Policy Team,

before any final decision is made by the Council on the proposed installation of 5G apparatus on Council assets.

Could you please address each expectation separately, giving clarity on Bath&NES Council's commitment to bring into effect each of them in accordance with due processes and through effective action being taken by the Council in the public interest.

We have become aware of the significance of EC Regulation 2020/1070 'on specifying the characteristics of small-cell wireless access points pursuant to Article 57 paragraph 2 of Directive (EU) 2018/1972 (the European Electronic Communications Code)', in respect to public health protection concerning this type of development, published here:

<https://www.legislation.gov.uk/eur/2020/1070/introduction/data.xht?view=snippet&wrap=true>

and, raising this now might be helpful.

Further, concerning expectation iv) we are able to present our perspectives and those of already interested Bath residents on the types of issues that warrant inclusion and appraisal in pre-consultation public information that Bath&NES should issue prior to opening consultations on the 5G Mobile Network Pilot project which we could provide to involved officers in relation to our expectation iv).

We would be grateful for an early response to this request.

Thank you
Neil McDougall and Karen Churchill

6) JULY 30th EMAIL FROM WILL GODFREY

Dear Neil and Karen,

Thank you for your email correspondence from June 2024 regarding the ONE WORD 5G Mobile Network Pilot Project (“the Project”). Please read this response alongside that already given by me, on 12 July 2024.

Background

The European Electronic Communications Code (“EECC”) is an EU Directive (Directive 2018/1972) that consolidates and reforms the previous four main telecoms Directives (Framework, Authorisation, Access and Universal Service), and incorporates them in a single document. The UK implemented the new EECC requirements through the Electronic Communications and Wireless Telegraphy (Amendment) (European Communications Code and EU Exit) Regulations 2020 which amended the Wireless Telegraphy Act 2006 and the Communications Act 2003. It is important to appreciate the requirements within the EECC that were not new had already been incorporated into domestic law through a variety of domestic legislation. Similarly, other Directives concerning telecommunications, including EU Directive 2014/61/EC mentioned in your note, have been implemented through a variety of domestic legislation.

More specifically, in so far as the telecoms Directives impose obligations on the State in relation to planning (in other words, the authorization in planning terms of the infrastructure required to facilitate the provision of telecoms), these are reflected in our domestic statutory planning regime. This comprises, amongst other materials, the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015.

The Council takes the view that it is not helpful to consider its obligations in relation to the Project in terms of whether it is a “competent authority” under the EECC. In part that is because, following Brexit, EU Directives no longer form part of domestic law (see the Retained EU Law (Revocation and Reform) Act 2023). Instead, consideration must be given to domestic legislation as the source of the Council’s legal responsibilities. The language of “competent authority” is used in EU Directives because it gives member states flexibility to allocate a regulatory function to a public authority of its choosing. However, this language is not generally replicated in domestic legislation which instead tends to specify the responsible public authority

The Council accepts that under our domestic statutory planning regime it is the public authority (or one of them at least) responsible for deciding whether telecoms infrastructure should be permitted. In this sense, where EU Directives refer to the “competent authority” responsible for the authorisation in planning terms of telecoms infrastructure, it is accepted that the Council has this role (sometimes alongside other public bodies according to the context).

Your note appears to proceed on the basis that the Council is required to carry out a public consultation in relation to the Project as a result of recital 105 to the EECC and Article 44 of the EECC. This is not the case because:

(a) As explained above, EU Directives, including the EECC, no longer form part of domestic law. As such, EU Directives no longer confer rights in the UK. The question, instead, is that which the relevant domestic legislation requires. In this instance the Council is not aware of any domestic statutory provision requiring a consultation on the Project including in the Wireless Telegraphy Act 2006, the Communications Act 2003 and the planning regime.

(b) Even if the EECC still formed part of our domestic law, the recital to an EU Directive provides context but does not itself contain rights and obligations (these are instead contained in the Directive’s Articles).

(c) Article 44 of the EECC (the interpretation of which is informed by the recitals) is concerned with the circumstances in which the state may compel an operator to share its network infrastructure with other operators. In the UK, the Council is not the public authority responsible for the imposition of co-location requirements. Further and in any

event, the public consultation requirement in Article 44 only bites where the state is considering imposing on operators requirements to share network infrastructure. That is not what is proposed under the Project as it currently stands.

That said, please rest assured that the Council has every intention of ensuring that it complies in full with the legal and regulatory requirements applicable to the Project. To this end, the Council will seek specialist legal advice as it considers necessary.

Issue 1: Public consultation on the Project, including in relation to its public health and environmental consequences
The Council was not subject to any statutory requirement to carry out a public consultation before making the decision of 5 February 2024 to proceed with the Project (“the Decision”). As explained above, that includes any requirement contained in or derived from the EECC.

That said, the Decision was in any event informed by a Voicebox survey in which a significant proportion of residents cited connectivity problems as a barrier to accessing services online. In bidding for the Project funding and making the Decision the Council has proactively tried to address this issue.

Having made the “in principle” Decision to proceed with the project, the Council intends to carry out additional engagement to better understand the concerns of local people in the hope that these can be addressed in the way the Project is implemented.

Issue 2: The Council’s role as a EECC competent authority for the purposes of its management of the Project
Please see the explanation above under the heading “Background”.

Issue 3: Confirmation to be sought as to the Council’s role as a competent authority under the EECC from the Department of Housing, Communities and Local Government and from the Department for Science, Innovation and Technology

The Council does not intend to seek any such confirmation in light of the analysis provided under the heading “Background”.

Issue 4: Public consultation on the Project from a planning perspective

On 1 July 2024 a certificate of lawful development was granted in relation to development required by the project (24/01855/CLPU).[1] This type of application is not subject to statutory consultation requirements but a number of representations were received. These were considered but not ultimately taken into account since the points made were not relevant to tests for granting a certificate of lawful development). The Council is not required to hold any further consultation on related planning matters and does not intend to do so.

Will Godfrey

Chief Executive

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7) 14 AUGUST EMAIL TO WILL GODFREY(BANES CEO) FROM NEIL and KAREN, COUNCILLOR ROPER WHO SIGNED OFF THE PROJECT COPIED IN

(We do not accept his claims about the legal responsibilities and are challenging him in outline in the email and in 2 sections appended to the email, the first where we lay out the obligations in EU directives and how the competent authority status was transferred in 2018, and the associated admin provisions re small cells apply continue from previous 2009 directive at that point and still apply. The second section answers Will Godfrey's assertions about their legal obligations directly. If you have any questions and would like clarity, please email. Thanks.

Dear Mr Godfrey,

Thank you for your further response of the 30 July 2024 to our 'Notice of significant public interest relating to the 'statutory considerations' phase of the ONE WORD 5G Mobile' issued to Councillor Roper on the 13 June 2024.

B&NES Council's obligations as an European Electronic Communications Code (EECC) competent authority for the regulation of small cell deployment, and therefore in relation to the One Word 5G Mobile Network Pilot Project (the 'Project'), is as you accept in paragraph 6 of the 'Background' section of your response, a matter that requires B&NES Council to act further upon, to ensure that it complies in full with all legal and regulatory requirements as applicable.

We drew your attention to EC Regulation 2020/1070 on 'specifying the characteristics of small-area wireless access points ...' as having direct effect in our email of the 27 June 2024, which we refer to again below, in paragraph 5 of section 1 'LA/LPA EECC competent authorities having direct effect on the 11 December 2018 assignment', appended to this response.

This EC Regulation demonstrates the direct effects of EECC Articles on B&NES Council which still apply, and have a genesis that can be traced back to 2002. As we explain in Section 1, B&NES Council should be applying a coherent regulatory assembly of assimilated and domestic law throughout all phases of the 'Project'.

To assist B&NES Council at this juncture,

i) in Section 1 we explain our understanding of relevant assimilated law to B&NES Council's competent authority status under the EECC,

ii) in Section 2 'In response to the Background Section of your 30 April 2024 email', we present our perspectives on the interpretation made in your 'Background' section of your email paragraph-by-paragraph, and our doubts about the reliability of the interpretations that B&NES Council adopt,

and,

iii) we reaffirm our belief that B&NES Council's position as presented in respect to Issues 1 to 4 as substantive cannot be deemed reliable, given our position on how the statutory obligations of B&NES Council concerning the required regulation of the 'Project' are perceived, and therefore are intended to be applied.

We therefore request:

1. that you confirm that our understanding of how B&NES Council's EECC competent authority status applies in respect to the assimilated law that we identify as being currently in force (in Section 1 and 2) is accepted in full,

and,

2. that full public consultations (Issue iv) of our Notice) are arranged forthwith on the inevitability that the 'Project' will trigger,

'co-location or sharing of network elements and facilities installed....',

as the Key Project Aim 5 for B&NES as reported in 'Appendix 1: One Word 5G Mobile Network Pilot Project Overview on the '5G Mobile Network - Western O-RAN Development (Word)', states explicitly that the 'Project' will support:

'Developing Open RAN Technology - significant technology investments in "Real Time Control" (energy use, spectrum efficiency) and "Multi Operator Functionality", thus acting as a pilot for future use by a number of commercial 5G network operators'.

That Key Project Aim presumably, was agreed by Councillor Roper on the 5 February 2024 as a primary reason for B&NES Council's initial authorisation of the 'One Word 5G Mobile Network Pilot Project'.

Please will you confirm B&NES Council's commitment to applying a coherent regulatory assembly of assimilated and domestic law throughout all phases of the 'Project' in accordance with request 1; and further, that you will bring into effect the required complementary and full public consultation in accordance with request 2, both above, and as described in paragraph 3.2 of our Notice of 13 June 2024 referring specifically to EECC Article 44 and Recital 105, and as reinforced in Section 4 of the Notice, within 14 days of your receipt of this email.

Thank you,

Neil McDougall and Karen Churchill

1. LA/LPA EECC competent authorities having direct effect on the 11 December 2018 assignment

1. The Directive 'Authorisation of Electronic Communications Networks and Services', 2009/140/EC, required LAs/LPAs competent authority status to be applied in respect to Recital 4 and Article 12 obligations.

2. Recital 4 of Directive stated that,

'the competent authorities, particularly local authorities, should establish appropriate coordination procedures, in cooperation with national regulatory authorities, with respect to public works (ie: small cell deployment) and other appropriate public facilities or property which may include procedures that ensure that interested parties have information concerning appropriate public facilities or property and on-going and planned public works (ie: masts), that they are notified in a timely manner of such works, and that sharing is facilitated to the maximum extent possible (our comment in brackets)',

and Article 12 on,

'Co-location and sharing of network elements and associated facilities for providers of electronic communications networks', at paragraph 5, stated that,

'measures taken by a national regulatory authority in accordance with this Article shall be objective, transparent, non-discriminatory, and proportionate. Where relevant, these measures shall be carried out in coordination with local authorities'.

3. On agreement being given to the EECC on the 11 December 2018 by EU Member States (including the UK), the 2009 Directive was deleted, making UK LAs/LPAs EECC competent authorities from that date onwards.

4. UK tracing of the life span of the Directive

see: <https://www.legislation.gov.uk/eudr/2009/140/introduction>

reported that Directive 2009/140/EC was,

'deleted by Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast)'.

5. The 2009 Directive was no longer effective in the UK on the 11 December 2018, as the EECC Recitals, particularly Recital 22, maintained the pre-requisite and direct LA/LPA competent authority status sufficiently for the UK to proceed to transpose the EECC fully through Legislation, Regulations (including (EU) 2020/1970 of 20 July 2020 on 'specifying the characteristics of small-area wireless access points ...' see our response ii) to paragraph 1 sentence two and three of your 'Background' to your email, below), or through administrative provisions during the period between EU-wide approval of the EECC on the 11 December 2018 upto the 21 December 2020 deadline for full transposition.

6. The 2009 Directive Recital 4 and Article 12 paragraph 5 (quoted at paragraph 1 above), both highlight the importance of Ofcom as the UK national regulatory authority coordinating 'measures' with local authorities as competent authorities for the purposes of spectrum use, access and management, making it simply the case that to be 'generally authorised' to operate 'public works' (for small cell deployment) or 'planned public works' (for a mast/antenna) within localities, the 'undertaking' (ie: the telecommunication services operator) had to be granted a contract for the former, or planning permission for the latter by the relevant LA/LPA, as a 2009 Directive competent authority with some Ofcom oversight.

7. The foundational 2002 Directive on a 'common regulatory framework for electronic communications networks and services (Framework Directive)',

see: <https://www.legislation.gov.uk/eudr/2002/21/contents>

included LA/LPA related Recitals 17 and 23, reading consecutively that the,

'the activities of national regulatory authorities established under this Directive and the Specific Directives contribute to the fulfilment of broader policies in the areas of culture, employment, the environment, social cohesion and town and country planning (Recital 17)',

and that,

'facility sharing can be of benefit for town planning, public health or environmental reasons, and should be encouraged by national regulatory authorities on the basis of voluntary agreements ...(Recital 23)',

with Article 12 reading,

'where mobile operators are required to share towers or masts for environmental reasons, such mandated sharing may lead to a reduction in the maximum transmitted power levels allowed for each operator for reasons of public health, and this in turn may require operators to install more transmission sites to ensure national coverage'.

8. Therefore, it is legitimate to assume Matt Warman's (as Secretary of State for Digital, Culture Media and Sport) 22 June 2021 statement that,

'the transposition of the EECC would have no effect on the status of local planning authorities where they are considered competent authorities under EU Directive 2014/61/EC (quoted in Section 3 of the Notice originally sent to Councillor Roper on the 13th June 2024)',

'can be interpreted straightforwardly as meaning that LPA/LA EECC competent authority status applies 'where' town planning functions need to be performed under EECC spectrum management, and that 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 applications for a new mast/antennas are determined, or when considerations specific to contractual arrangements for small cell deployment arise'.

9. And, that those obligations:

i) have a genesis that stretches back to 2002,

ii) that competent authority status existed formally in Directive 2009/140/EC, and therefore through Directive 2014/61/EC 'Measures to reduce the cost of deploying high speed electronic communications networks',

iii) that it is legitimate to assume that the status of LPAs/LAs as competent authorities enacting EU Telecommunications services general authorisations originated as Directive 2009/140/EC came into effect.

iv) the UK Government's agreement to enact the EECC on the 11 December 2018 resulted in the direct assignment of EECC competent authority status to LPAs/LAs for the purposes of ensuring legal certainty and continuity for the updated general authorisation systems re: mast siting and small cell deployment.

and,

v) the LA/LPA EECC general authorisation systems are still in operation.

2. In response to the Background Section of your 30 July 2024 email

Your paragraph 1, sentence one: The European Electronic Communications Code ("EECC") is an EU Directive (Directive 2018/1972) that consolidates and reforms the previous four main telecoms Directives (Framework, Authorisation, Access and Universal Service), and incorporates them in a single document.

Our response: Clearly, the 'Authorisation' component of EECC consolidation and reform had direct effect within EECC participating nation states, including the UK as an EU Member State when the EECC was agreed on the 11 December 2018, for reasons of legal certainty and continuity. Therefore, the obligations of competent authorities granting or refusing rights through their general authorisation powers under the terms of the new 'Authorisation' systems, and the rights of the parties is respect to those powers had direct effect through EECC assignment on the 11 December 2018. The status of EECC competent authorities concerning their general authorisation powers, remain unchanged from that date onwards upto to the present.

Your paragraph 1, sentence two and three: The UK implemented the new EECC requirements through the Electronic Communications and Wireless Telegraphy (Amendment) (European Communications Code and EU Exit) Regulations 2020 which amended the Wireless Telegraphy Act 2006 and the Communications Act 2003. It is important to appreciate the requirements within the EECC that were not new had already been incorporated into domestic law through a variety of domestic legislation. Similarly, other Directives concerning telecommunications, including EU Directive 2014/61/EC mentioned in your note, have been implemented through a variety of domestic legislation.

Our response: New EECC requirements can be brought into domestic application by means other than through domestic legislation:

i) by direct assignment (such as through the 'Authorisation' components as explained above, and as demonstrated by EECC Recital 22),

ii) directly through EU Regulation as demonstrated by the Commission Implementing Regulation (EU) 2020/1970 of 20 July 2020 on 'specifying the characteristics of small-area wireless access points pursuant to Article 57 paragraph 2 of Directive (EU) 2018/1972 of the European Parliament and the Council establishing the European Electronic Communications Code'

<https://www.legislation.gov.uk/eur/2020/1070/data.pdf>

The direct application of the European Commission Regulation (EC Regulation 2020/1070 'on specifying the characteristics of small-cell wireless access points pursuant to Article 57 paragraph 2 of Directive (EU) 2018/1972 (the European Electronic Communications Code)', in respect to public health protection concerning this type of development came into direct effect on the 18 December 2020, and still applies as UK legislation

published here:

<https://www.legislation.gov.uk/eur/2020/1070/introduction/data.xht?view=snippet&wrap=true>

as raised in paragraph 3 of our email to you of the 27 June 2024 as being applicable to B&NES Council's EECC competent authority obligations in relation to the One Word 5G trial (the 'Project').

iii) through the implementation of administrative provisions (such as through EECC Recitals 21 and 121),

and,

iv) through the terms of the European Union Withdrawal Act (EUWA) 2018 and the saving systems within that Act, with the possibility that additional savings may have retrospective effect through EUWA 2018 Schedule 8 paragraph 39(5).

The Articles of relevant Directives 2014/61/EC and 2018/1972, and the Regulations 2020/1970 became assimilated EU law under the Retained EU Law (Revocation and Reform) Act 2023, and remain assimilated. This should not effect the implementation of the measures and provisions of Directives that were properly transposed, as their Recitals described the pre-requisite mechanisms that were required to enable the Articles to be binding in respect to obligations of competent authorities when exercising their functions in accordance with the rights of involved parties.

Your paragraph 2: More specifically, in so far as the telecoms Directives impose obligations on the State in relation to planning (in other words, the authorization in planning terms of the infrastructure required to facilitate the provision of telecoms), these are reflected in our domestic statutory planning regime. This comprises, amongst other materials, the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development) (England) Order 2015.

Our response: This general statement is not specific enough to guide B&NES Council reliably through to compliance with it's obligations as an EECC competent authority in relation to the public health and environmental protection obligations it must fulfil on the One Word 5G trial small cell deployment proposal.

Your paragraph 3: The Council takes the view that it is not helpful to consider its obligations in relation to the Project in terms of whether it is a "competent authority" under the EECC. In part that is because, following Brexit, EU Directives no longer form part of domestic law (see the Retained EU Law (Revocation and Reform) Act 2023). Instead, consideration must be given to domestic legislation as the source of the Council's legal responsibilities. The language of "competent authority" is used in EU Directives because it gives member states flexibility to allocate a regulatory function to a public authority of its choosing. However, this language is not generally replicated in domestic legislation which instead tends to specify the responsible public authority.

Our response: Quite simply, B&NES Council are required to apply relevant assimilated law (as defined under the REUL Act 2023), alongside interconnected planning and/or public health legislation to meet its statutory functions in relation to small cell deployment.

Your paragraph 4: The Council accepts that under our domestic statutory planning regime it is the public authority (or one of them at least) responsible for deciding whether telecoms infrastructure should be permitted. In this sense, where EU Directives refer to the “competent authority” responsible for the authorization in planning terms of telecoms infrastructure, it is accepted that the Council has this role (sometimes alongside other public bodies according to the context).

Our response: We have explained our current understanding of relevant assimilated law and its origins and genesis in respect to the 2018 competent authority status of LAs/LPAs, which remain unchanged post-Brexit. Our current expectation is that B&NES review these sources of law, so they can be applied appropriate in accordance with our previously stated expectations.

Your paragraph 5 (a): Your note appears to proceed on the basis that the Council is required to carry out a public consultation in relation to the Project as a result of Recital 105 to the EECC and Article 44 of the EECC. This is not the case because:

As explained above, EU Directives, including the EECC, no longer form part of domestic law. As such, EU Directives no longer confer rights in the UK. The question, instead, is that which the relevant domestic legislation requires. In this instance the Council is not aware of any domestic statutory provision requiring a consultation on the Project including in the Wireless Telegraphy Act 2006, the Communications Act 2003 and the planning regime.

Our response: We do not accept that EU Directives 'no longer form part of (UK) domestic law'. Our final paragraph of our response to 'Your paragraph 1, sentence two and three of your 'Background'' above, demonstrates.

Your paragraph 5 (b): Even if the EECC still formed part of our domestic law, the recital to an EU Directive provides context but does not itself contain rights and obligations (these are instead contained in the Directive's Articles).

Our response: B&NES Council will need to determine its position on the applicability of (a) and or (b), or take advice which Mr Godfrey has assured us that he will in paragraph 7, below. Our current understanding of relevant assimilated law and it's origins and genesis, in respect to the 2018 competent authority status of LAs/LPAs, may help in this regard.

Your paragraph 5 (c): Article 44 of the EECC (the interpretation of which is informed by the recitals) is concerned with the circumstances in which the state may compel an operator to share its network infrastructure with other operators. In the UK, the Council is not the public authority responsible for the imposition of co-location requirements. Further and in any event, the public consultation requirement in Article 44 only bites where the state is considering imposing on operators requirements to share network infrastructure. That is not what is proposed under the Project as it currently stands.

Our response: We do not agree that EECC Article 44 applies to 'the state', as the Article refers specifically to competent authorities in the plural, as it reads,

'Where an operator has exercised the right under national law to install facilities on, over or under public or private property, or has taken advantage of a procedure for the expropriation or use of property, competent authorities may impose co-location and sharing of the network elements and associated facilities installed on that basis, in order to protect the environment, public health, public security or to meet town-and country-planning objectives'.

Co-location or sharing of network elements and facilities installed and sharing of property may be imposed only after an appropriate period of public consultation, during which all interested parties shall be given an opportunity to express their views and only in the specific areas where such sharing is considered to be necessary with a view to

pursuing the objectives provided in the first subparagraph. Competent authorities may impose the sharing of such facilities or property, including land, buildings, entries to buildings, building wiring, masts, antennae, towers and other supporting constructions, ducts, conduits, manholes, cabinets or measures facilitating the coordination of public works. Where necessary, a Member State may designate a national regulatory or other competent authority for one or more of the following tasks:

(a) coordinating the process provided for in this Article' (other tasks were specified)

Whilst B&NES Council is ambivalent about:

1. its EECC competent authority status,
2. the relevance and status of applicable assimilated legislation,
3. whether or not it will as a competent authority with an intent to grant a general authorisation, or as the owner of the street furniture deployed, will in the pursuit of public health or town-and-country-planning objectives, impose 'co-location and sharing of network elements and associated facilities' on telecommunication service operators, it is nonetheless clear from the proviso stated in paragraph 6,

'that is not what is proposed under the Project as it currently stands',

the One Word 5G trial may have to operate under the trial period or subsequently under an imposed 'co-location or sharing of network elements and facilities'.

Further, it is surely the case that B&NES Council has already been nominated as the 'competent authority' to,

'(a) co-ordinate the process provided for (in EECC Article (44))',

as the host Council conducting this trial (through its agents, as and when appointed).

For these reasons we argue again that it is appropriate and necessary for BANES Council to undertake proper and formalised public consultations on the One Word 5G trial proposals, rather than to rely upon wish-list type public attitude survey where members of the public questioned had no prior knowledge of any proposal nor the consequences of any proposal that BANES Council might support in the what it might perceive as being in the public interest.

Your paragraph 7: That said, please rest assured that the Council has every intention of ensuring that it complies in full with the legal and regulatory requirements applicable to the Project. To this end, the Council will seek specialist legal advice as it considers necessary.

Our response: This appears to be essential and urgent.