

EIA Request/Objection to Telecommunications Mast Application

AWDM/1596/25 | Application for Prior Approval for installation of a replacement telecommunications base station comprising 20m high monopole (5G), wrap-around cabinet, supporting 9no. antennas and 2no. 300mm diameter transmission dishes and ancillary development thereto.

EIA Request/Objection to Telecommunications Mast Application.....	1
1. Proximity to sensitive receptors.....	2
2. ICNIRP and UKHSA guidance re metal implant users.....	3
3. Binding legal authority – Thomas v Cheltenham Borough Council.....	4
4. Exclusion zones, foreseeable implant users, and prevention of harm.....	4
5. Wider population risk and precautionary scientific evidence.....	5
New Hampshire Commission (2020).....	5
ICBE-EMF scientific review (2022).....	6
Precautionary separation distances.....	6
Children as a vulnerable population group.....	6
6. EIA Regulations – duty to screen for likely significant effects on human health.....	7
7. Equality Act and public health duties.....	8
8. EEC Annex I(B)(3) – health risk reconciliation duty.....	8
9. Aarhus Convention and reasons requirement.....	10
10. Planning conclusion.....	10
Appendix A New Hampshire Commission.....	11
Appendix B – UKHSA Advice.....	12
B1. Relevant UKHSA Quotations.....	12
B2. Standards Cited in UKHSA’s Response.....	13
B3. Applicability to Telecommunications Planning.....	13
Appendix C – European Electronic Communications Code: Public-Health Safeguards and Competent-Authority Framework.....	14
C1. Purpose of this Appendix.....	14
C2. Article 6(2) – Independence and Powers of Competent Authorities (verbatim).....	14
C3. Annex I(B)(3) – Specific Condition: Protection of Public Health Against EMF (verbatim).....	14
C4. Relevant EEC Recital on Public-Health Protection (verbatim).....	15
EECC Recital 22 – Tasks assigned.....	15
EECC Recital 34 – Independence.....	15
EECC Recital 106 – Risk reconciliation duty.....	15
EECC Recital 110 – Public Health Imperative.....	15
C5. Council Recommendation 1999/519/EC – Reference Exposure Guidelines.....	15
1999/519/EC paragraph 4.....	16
1999/519/EC paragraph 19.....	16
C6. Competent Authority and Implementation Framework.....	16
C7. Assimilation into UK Law.....	16
C8. Practical Relevance to Planning Decisions.....	17
EECC & 1999/519/EC Links.....	17
Appendix D EEC References.....	17

D1. Status and purpose of this appendix.....	17
D2. Procedural standard in Council Recommendation 1999/519/EC.....	18
D3. ICNIRP guidelines as part of a procedural standard (submission analysis).....	18
D4. Procedural role of competent authorities in granting general authorisations.....	18
D5 Additional quoted material from Appendix 2.....	19
Extract 1 – Children’s vulnerability.....	19
Extract 2 – Effects below guideline limits.....	19
Extract 3 – Sensitive sub-populations.....	19
D6. Relevance to the present objection.....	19

Please consider Sections 1 -10 ahead of the leading to this formal request that the authority:

1. Adopt a lawful screening opinion under Regulation 5 of the EIA Regulations 2017 addressing Schedule 3 criteria;
2. Undertake a site-specific public-health risk assessment including implant users and residents at 33 m;
3. Publish site-specific exclusion-zone modelling and three-dimensional electromagnetic field exposure profiles at human height and at relevant upper-floor elevations for Romany Road residences, the Durrington Community Centre (staff and visitors), Columbia House flats (including upper-floor apartments at or near antenna height), and Hawthorns Nursery School and Hawthorns Primary School.
4. Identify mitigation features and measures as required by Regulation 5(5)(b);
5. Consider precautionary conditions, alternative siting or refusal.

1. Proximity to sensitive receptors

The proposed mast would be located extremely close to residential properties and facilities used by vulnerable groups, including:

- Romany Road residences – approx. **32.67 m**
- Durrington Community Centre (children and elderly users) – approx. **32.96 m**
- Columbia House flats – approx. **72.24 m**
- Hawthorns Nursery School – approx. **296.95 m**
- Hawthorns Primary School – approx. **307.41 m**
- The Laurels Primary School – approx. **429.08 m**
- Tesco petrol station (employees) – approx. **102 m**
- Tesco supermarket frontage – approx. **272 m**

This degree of proximity is directly relevant to amenity, public health, and lawful siting.

Vertical proximity and upper-floor receptors

In addition to horizontal separation distances, vertical proximity is a material consideration in

assessing exposure. The proposed monopole is 20 metres in height. Columbia House is a multi-storey residential building, and it is foreseeable that residents in upper-floor apartments may be located at elevations comparable to, or above, the height of the antenna array.

In such circumstances, ground-level distance alone is not a reliable proxy for exposure. Site-specific three-dimensional modelling is required to determine predicted field strength at human height within upper floors, balconies, and other elevated occupied spaces.

The absence of any such modelling in the present application means that potential exposures for residents at approximately 72 metres, including those at or near antenna height, have not been assessed. This omission is material to public-health risk, to the assessment of implant-user safety, and to the authority's duty to undertake lawful EIA screening under Regulation 5.

2. ICNIRP and UKHSA guidance re metal implant users

The ICNIRP guidelines expressly exclude from the scope of public exposure limits:

- persons with implantable medical devices (including pacemakers, stents, loop recorders, insulin pumps, cochlear implants and cerebral shunts); and
- persons with metallic implants (including joint replacements, plates, screws, rods and dental metal).

UK Health Security Agency (UKHSA) guidance confirms that users of active implantable medical devices may be safe **only if they remain outside public exclusion zones** around transmitting equipment.

The current application provides no such exclusion-zone modelling or site-specific assessment.

Accordingly, an ICNIRP certificate does **not** demonstrate safety for this section of the population.

In its Freedom of Information response of **23 December 2024**, the **UK Health Security Agency (UKHSA)** confirmed that **Active Implantable Medical Devices (AIMDs)** such as pacemakers are regulated under the UK Medical Device Regulations and relevant British Standards. UKHSA noted that the relevant designated standards specify that the operation of AIMDs **should not be influenced by field levels up to the International Commission on Non-Ionizing Radiation Protection (ICNIRP) General Public Reference Levels**, and that **any exceptions must be declared by the manufacturer**.

Crucially, UKHSA stated that members of the public who wear AIMDs:

"...should be protected if:

- the manufacturer of the AIMD used the designated standard to demonstrate compliance with UK Regulations;
- the manufacturer of the AIMD issued no applicable warnings; and

- **exclusion zones around mobile phone masts based on the ICNIRP public exposure guidelines are respected by the AIMD wearer.”**

This confirms that safety for AIMD wearers at or near telecommunications installations depends on **respecting public exclusion zones derived from ICNIRP exposure guidelines**. The current application provides **no exclusion-zone diagrams, no modelling of exposure at human height within or around buildings, and no site-specific assessment of risks to implant wearers**. Accordingly, an ICNIRP certificate alone does not demonstrate safety for this section of the population, and no lawful conclusion of safety can be reached without detailed exclusion-zone assessment and mitigation measures. This omission is a material defect in the application and evidence base.

The evidential basis for this position, including the UKHSA Freedom of Information response dated 23 December 2024 (Ref: 20/10/24/LS/427), is set out in **Appendix B**.

3. Binding legal authority – *Thomas v Cheltenham Borough Council*

In *Thomas v Cheltenham Borough Council* [2024] EWHC 1035 (Admin), upheld by the Court of Appeal in [2025] EWCA Civ 259, the High Court held that:

- compliance with ICNIRP does not assess risks to persons with medical or metallic implants;
- such risks fall outside the scope of ICNIRP; and
- local planning authorities are entitled and required to consider those risks where properly raised.

On the facts of that case:

- a pacemaker user located approximately **100 metres** from the mast was not regarded as material;
- however, the claimant resided approximately **17 metres** from the equipment; and
- the Court stated (at paragraph 46) that if implant risks had been raised for residents living that close, this **may well have been material to the siting decision**.

Materiality therefore depends on proximity.

4. Exclusion zones, foreseeable implant users, and prevention of harm

Where safety for implant users depends on remaining outside exclusion or controlled exposure distances, risk becomes **location-specific**, not theoretical.

In the present case:

- residential properties are approximately **32.67 m** from the proposed mast;
- the Durrington Community Centre is approximately **32.96 m** from the mast;

- the centre is used by children, elderly persons and the general public;
- no exclusion zone has been identified;
- no site-specific assessment has been undertaken; and
- no consideration has been given to whether nearby residents or regular users may include persons with implants.

It is plainly foreseeable that among residents and regular users there may be persons with pacemakers, stents, joint replacements, insulin pumps, cochlear implants or cerebral shunts.

Such medical information is private and will not necessarily be disclosed through the planning process. The absence of a named objector with an implant does not mean that the risk does not exist.

Planning authorities routinely assess risks to identifiable classes of persons (e.g. road users, schoolchildren, residents affected by noise or air pollution) without knowing the identity of specific individuals.

Where safety depends on remaining outside exclusion zones, the authority cannot lawfully conclude that siting is safe without knowing whether such persons will fall within those zones in practice.

The absence of any such assessment renders reliance on ICNIRP compliance legally inadequate.

5. Wider population risk and precautionary scientific evidence

Beyond implant users, proximity is a scientifically recognised determinant of health risk for the general population.

New Hampshire Commission (2020)

The **New Hampshire HB522 Commission on 5G**, Final Report, 2020 was convened through bipartisan legislation that was passed by the legislature and signed by the Governor.

The 13 Commission members had backgrounds that included physics, toxicology, electromagnetics, epidemiology, biostatistics, occupational health, medicine, public health policy, business, and law.

The overarching conclusion is, again, that wireless radiation is harmful, and supports 500m as being a realistic protective distance for radiation.

The New Hampshire Commission to Study the Environmental and Health Effects of Evolving 5G Technology reported:

- neurological, reproductive and oxidative stress effects at exposure levels below guideline limits;
- particular concern for chronic residential exposure; and

- increased risk within 500 m and therefore recommends a minimum setback of 500 m

[Dr. Kent Chamberlin presents on the New Hampshire 5G Commission Findings and Wireless Safety](#)
60mins

[NH Commission Setback Justification](#)

22.12.2020 Children's Health Defence: [Landmark Study Highlights Health Threats of 5G on People + Planet](#) (Further references in Appendix A below)

ICBE-EMF scientific review (2022)

<https://pmc.ncbi.nlm.nih.gov/articles/PMC9576312/>

The International Commission on the Biological Effects of Electromagnetic Fields (ICBE-EMF) reviewed over 2,000 peer-reviewed studies and concluded that:

- RF radiation causes oxidative stress;
- causes DNA damage;
- affects neurological function;
- affects fertility and development; and
- produces effects below current international exposure limits.

(See: Hardell & Nyberg et al., *Environmental Health*, 2022, PMC9576312.)

Precautionary separation distances

International regulatory and planning practice frequently adopts precautionary separation distances in the range of **100–500 metres** for residential settings.

No fixed statutory distance applies in UK planning law. However, this evidence demonstrates that:

- proximity materially affects risk;
- residential exposure is the most sensitive category; and
- siting at **33 metres** represents the highest-risk planning scenario.

Children as a vulnerable population group

Schedule 3 of the EIA Regulations requires specific consideration of the “vulnerability of the population likely to be affected”. Children are a recognised vulnerable group in environmental health assessment due to developing neurological and immune systems, higher relative absorption of radiofrequency energy, and longer lifetime cumulative exposure.

The presence of both Hawthorns Nursery School and Hawthorns Primary School within approximately 300 metres of the proposed installation materially increases the sensitivity of the receiving environment. This factor must be taken into account when assessing whether the development may give rise to likely significant effects on human health for the purposes of Regulation 5.

6. EIA Regulations – duty to screen for likely significant effects on human health

Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017:

- Schedule 2 development must be screened where it may give rise to likely significant effects on the environment, including effects on human health; and
- Schedule 3 requires particular regard to be had to:
 - the location of the development;
 - the environmental sensitivity of the area;
 - the characteristics of the potential impact; and
 - the vulnerability of the population likely to be affected.

In the present case:

- continuous residential occupation exists at approximately 33 metres from the proposed installation;
- vulnerable populations are present, including children and elderly persons;
- users of active and passive medical implants are foreseeably present among nearby residents and regular users of the community centre;
- no public exclusion zones have been identified or modelled; and
- proximity-based health effects are supported by peer-reviewed scientific evidence.

These factors are more than sufficient to engage the duty to adopt a lawful screening opinion under Regulation 5.

Scientific uncertainty and procedural assessment

The duty to screen under Regulation 5 is not confined to impacts that are conclusively established beyond dispute. It is engaged where there is credible evidence of potential harm, particular sensitivity of the affected population, or scientific uncertainty coupled with proximity and continuous exposure.

Published scientific literature reports biological effects at exposure levels below existing guideline limits, heightened sensitivity in some individuals, and particular vulnerability in children. The existence of such evidence does not require the authority to resolve scientific controversies, but it does require the authority to consider whether, in the circumstances of this site, those factors may give rise to likely significant effects on human health requiring formal assessment and mitigation.

Where a negative screening opinion is adopted, Regulation 5(5)(b) requires the authority to state:

“any features of the development and measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment”.

A bare statement that the proposal is “not EIA development”, or reliance solely on the submission of an ICNIRP certificate, does not satisfy this statutory requirement.

In the present case, the absence of any exclusion-zone modelling, exposure profiles at human height, or site-specific assessment of risks to medical-implant users means that the authority cannot lawfully comply with Regulation 5(5)(b). Without this information, it is impossible to identify the relevant “features of the development” or the “measures envisaged to avoid or prevent” significant adverse effects on human health, particularly for vulnerable and excluded groups.

Accordingly, the submission and publication of site-specific electromagnetic exposure modelling and exclusion-zone assessment is not a discretionary technical matter, but a statutory prerequisite to a lawful screening opinion and to any rational decision on prior approval.

Further scientific context is summarised in Appendix 2 to the authors’ 12 September 2023 submission to the UK Government (see extracts in Appendix D).

7. Equality Act and public health duties

Reliance on ICNIRP compliance while excluding implant users from protection may amount to indirect discrimination contrary to sections 19 and 20 of the Equality Act 2010.

The authority also owes duties under the Health and Social Care Act 2012 to protect public health, particularly for vulnerable groups.

Foreseeable presence of particularly sensitive individuals

In addition to medical-implant users, a proportion of the population report heightened sensitivity to electromagnetic fields (often described in medical literature as electromagnetic hypersensitivity). Regardless of the underlying mechanism, this represents a foreseeable class of potentially vulnerable persons in residential and community settings.

The proximity of housing and a community centre used by the general public means it is reasonably foreseeable that such individuals may be present. This further reinforces the need for site-specific exposure modelling, exclusion-zone assessment, and precautionary evaluation of health impacts, rather than reliance on generic compliance statements alone.

(See also Appendix D, Extract 3.)

8. EEC Annex I(B)(3) – health risk reconciliation duty

Directive (EU) 2018/1972 (the European Electronic Communications Code), as assimilated into domestic law, establishes a regulatory framework under which public-health protection from electromagnetic fields forms part of the conditions governing the authorisation and siting of electronic communications networks as clarified in Recitals 22, 34, 106 and 110 (quoted in full in Appendix C4).

Under Article 6(2), Member States are required to ensure that competent authorities are empowered to attach and enforce conditions set out in Annex I. Annex I(B)(3) provides that, where risks to public health arise from electromagnetic fields, such risks are to be:

- identified;
- reconciled against the proposed siting; and
- where necessary controlled by conditions, taking into account:
 - the precautionary principle (Council Recommendation 1999/519/EC, **the procedural character of which is set out in Appendix D2**); and
 - relevant scientific evidence.”

As a local planning authority exercising statutory functions in relation to the siting and approval of telecommunications infrastructure, the Council forms part of the domestic decision-making framework through which those public-health safeguards are intended to operate.

In exercising those functions, the Council is acting as a competent authority within the meaning of the EEC framework, giving domestic effect to obligations that arise at Member State level (see Appendix C and Appendix D).

However, in the present case:

- no public exclusion zones have been identified or modelled;
- risks to persons with active or passive medical implants have not been assessed; and
- proximity-based health evidence has not been reconciled against the proposed location.

In those circumstances, the public-health safeguards contemplated by Annex I(B)(3) cannot in practice be given effect at the point of siting and authorisation.

The continuing relevance of these safeguards within the regulatory framework was confirmed by Andrews LJ in *Cheltenham Borough Council v Thomas* (CA-2024-001169), judgment dated 13 March 2025, who stated at paragraph 15:

“Directive EU 2018/1972 of the European Parliament and of the Council established the European Electronic Communications Code. The Directive contains in Annex 1 a long list of conditions which may be attached to general authorisations for electronic communications networks. They include ‘measures for the protection of public health against electromagnetic fields in accordance with Union law, taking utmost account of Recommendations 1999/519/EC.’”

Accordingly, where a planning authority is asked to approve the siting of telecommunications infrastructure in close proximity to residential and community receptors, the absence of exclusion-zone modelling and implant-risk assessment represents a failure to operationalise those public-health safeguards within the domestic planning decision-making process.

The procedural character of Recommendation 1999/519/EC, the requirement to take account of updated scientific evidence and precaution, and the analysis of competent authorities operationalising those standards through authorisation decisions were set out in our submission to

the UK Government dated 12 September 2023 (Karen Churchill and Neil McDougall) (see Appendix D).

9. Aarhus Convention and reasons requirement

The EIA Directive transposes the Aarhus Convention.

In [*Eco Advocacy CLG v An Bord Pleanála \(C-721/21\)*](#), Opinion of Advocate General Kokott, 19 January 2023, the Court confirmed that Article 4(5)(b) of the EIA Directive requires that a decision not to carry out an environmental impact assessment must contain a statement of reasons which is **recognisable as such and comprehensible in its content**, so as to enable effective public challenge, in accordance with the principles of effectiveness and equivalence (paras 70–74).

See Appendix E.

In the present case, a screening decision that merely states that the proposal is “not EIA development”, or relies in general terms on ICNIRP compliance, would not satisfy this requirement. Unless the authority explains, on the basis of evidence:

- how proximity to continuous residential occupation at 33 m has been assessed;
- how risks to medical-implant users have been evaluated in the absence of exclusion-zone modelling;
- how exposure at upper-floor level has been considered; and
- why these factors are not considered capable of giving rise to likely significant effects on human health,

the public would be unable to understand or meaningfully challenge the screening conclusion.

Accordingly, a lawful screening opinion must be reasoned by reference to site-specific exposure modelling, implant-user risk, and population vulnerability. In the absence of that material, any negative screening opinion would be procedurally defective.

10. Planning conclusion

Comparable planning decision – refusal for lack of safety evidence

A comparable planning decision illustrates that refusal is lawful where an applicant fails to provide sufficient evidence to demonstrate site-specific safety. In *Mendip District Council Planning Board decision 2021/1952/FUL (16 March 2022)*, a proposed upgrade of a telecommunications mast was refused contrary to the officer’s recommendation:

“Refused contrary to Officer Recommendation due to concerns on the impact to public health for all ages and lack of backed up evidence of the impact to health.”

That decision confirms that where an authority is not provided with adequate, site-specific evidence to assess public-health impacts, it is entitled to conclude that there is insufficient evidence of safety to proceed and to refuse permission on that basis. Such refusal does not involve substituting alternative exposure standards, but rests on evidential insufficiency and the

authority's duty to protect public health. The same principle applies here, where exclusion-zone modelling, exposure profiles, and assessment of risks to implant users have not been provided.

Given:

- the exclusion of implant users from ICNIRP protection;
- the binding authority of *Thomas v Cheltenham Borough Council*;
- the absence of exclusion-zone data and site-specific exposure modelling;
- proximity-based scientific risk evidence;
- statutory duties under the EIA Regulations, the Equality Act 2010, the Health and Social Care Act 2012 and the EECC; and
- visual and amenity harm,

the applicant has failed to demonstrate that the proposal is lawful, safe, proportionate or policy-compliant.

The applicant relies on an ICNIRP certificate; however, such certificates are necessarily founded on site-specific exclusion-zone calculations and diagrams identifying where public reference levels may be exceeded, **and are therefore evidentially incomplete when those materials are not disclosed to the authority**, nor has any assessment been undertaken of whether foreseeable medical-implant users would fall within those zones in practice.

Formal request prior to determination:

Before any decision is taken, I formally request that the authority:

1. Adopt a lawful screening opinion under Regulation 5 of the EIA Regulations 2017 addressing Schedule 3 criteria;
2. Undertake a site-specific public-health risk assessment including implant users and residents at 33 m;
3. Publish exclusion-zone modelling and exposure profiles at human height;
4. Identify mitigation features and measures as required by Regulation 5(5)(b);
5. Consider precautionary conditions, alternative siting or refusal.

In the absence of these steps, any grant of permission would be procedurally unlawful and vulnerable to challenge.

Thank you for your consideration of these matters.

Karen Churchill

15

Appendix A New Hampshire Commission

Included :

Approach 1: was to look at the adverse health effects as a function of the distance people live from a cell tower. By tracing adverse health effects in this way we can get a pretty good sense of where exposure risk becomes reasonable. There have been at least 10 studies.

Epidemiological evidence for a health risk from mobile phone base stations

<https://pubmed.ncbi.nlm.nih.gov/20662418/>

Mortality by neoplasia and cellular telephone base stations in the Belo Horizonte municipality, Minas Gerais state, Brazil

<https://pubmed.ncbi.nlm.nih.gov/21741680/>

Approach 2: to determine the setback, the first step is to identify the lowest power density in the laboratory that is shown to produce adverse health effects and there are many studies that have done this and so there's a reasonable consensus about what the radiation levels are where adverse effects begin to occur.

Low exposure levels are associated with bioeffects and adverse health effects at cell tower rfr exposure levels

<https://bioinitiative.org/conclusions/>

The second step is to identify the distance from a typical cell tower where that lowest level of radiation occurs. At that distance most people should not experience adverse health effects. Determining a setback distance using these two approaches provides us with a reasonability check.

https://www.researchgate.net/publication/314197160_A_Technical_Approach_to_the_Evaluation_of_Radiofrequency_Radiation_Emissions_from_Mobile_Telephony_Base_Stations

'Fortunately the two approaches give very similar results so we're confident that the setback the commission recommends is a good one.'

Take-Aways from the New Hampshire HB522 Commission on 5G Final Report:

https://www.lee.ma.us/sites/g/files/vyhlf771/f/uploads/cell_tower_info.pdf

Appendix B – UKHSA Advice

Document: UK Health Security Agency Freedom of Information Response

Reference: 20/10/24/LS/427

Date: 23 December 2024

Addressee: James Leighton

Subject: FOI Request – Pacemakers and Electromagnetic Interference

B1. Relevant UKHSA Quotations

a. AIMD Regulatory Basis and Standards

UKHSA confirmed that:

“Active Implantable Medical Devices (AIMDs) such as pacemakers are regulated under the UK Medical Device Regulations 2002...

The relevant designated standards for the Medical Device Regulations and Active Implantable Medical Devices (AIMDs) are the British Standards EN 45502. This family of standards specify that **the operation of implantable and patient-carried parts of an AIMD should not be influenced by field levels up to the International Commission on Non-Ionizing Radiation Protection (ICNIRP) 1998 General Public Reference Levels**, and that any exceptions to this should be declared in the accompanying documentation of the device.”

b. Safety Conditions and Exclusion Zones

UKHSA further stated:

“Consequently, members of the public who wear AIMDs **should be protected if:**

- the manufacturer of the AIMD used the designated standard to demonstrate compliance with UK Regulations,
- the manufacturer of the AIMD issued no applicable warnings, and
- **exclusion zones around mobile phone masts based on the ICNIRP public exposure guidelines are respected by the AIMD wearer.”**

This confirms that **ICNIRP-based exclusion zones** are part of the safety framework that implant wearers themselves must observe to ensure they remain under field levels consistent with device immunity expectations.

B2. Standards Cited in UKHSA’s Response

UKHSA’s FOI response refers to several relevant standards, including:

- **BS EN 45502-1:2015** – *Implants for surgery – Active implantable medical devices – Part 1: General requirements for safety, marking and information provided by the manufacturer.* This standard specifies that AIMDs should be immune up to the ICNIRP general public reference levels, with any residual risks declared in the manufacturer’s documentation.
- **BS EN ISO 20417:2021** – *Medical devices – Information to be supplied by the manufacturer,* which reinforces requirements for safety information including residual risk and instructions for use.
- **EN 50527 family of standards** (not directly excerpted but referenced by UKHSA) – designed to assess risks for workers with pacemakers from EMF exposures, and which also contain relevant immunity and recommended separation information.

B3. Applicability to Telecommunications Planning

Although UKHSA’s general public advice on radio waves (e.g., compliance with ICNIRP exposure limits) focuses on typical exposures, the FOI response makes clear that **implant wearers must observe exclusion zones to ensure immunity requirements are met**. The current application lacks any modelling or diagrams of such exclusion zones around the proposed installation, and provides

no site-specific evidence to demonstrate whether foreseeable persons at <100 m would be able to respect these zones in practice. Therefore, from the perspective of implant wearers, the application fails to demonstrate safety consistent with the standards referenced by UKHSA.

Appendix C – European Electronic Communications Code: Public-Health Safeguards and Competent-Authority Framework

C1. Purpose of this Appendix

This appendix provides the relevant legal text and contextual framework from **Directive (EU) 2018/1972 (the European Electronic Communications Code, “EECC”)** relating to public-health safeguards against electromagnetic fields (EMF) and the role of competent authorities in implementing those safeguards. These provisions support the discussion of public-health mitigation and condition-making duties referenced in Section 8 of this objection.

C2. Article 6(2) – Independence and Powers of Competent Authorities (verbatim)

Article 6(2) of Directive (EU) 2018/1972:

“Member States shall ensure that national regulatory and other competent authorities exercise their powers impartially, transparently and in a timely manner. Member States shall ensure that they have adequate technical, financial and human resources to carry out the tasks assigned to them.”

This provision requires Member States to ensure that competent authorities (including those empowered to regulate or authorise electronic communications networks) are legally and practically capable of carrying out those tasks. It underpins the framework in which public-health related conditions and safeguards may be implemented.

C3. Annex I(B)(3) – Specific Condition: Protection of Public Health Against EMF (verbatim)

Annex I(B)(3) – *Specific conditions which may be attached to a general authorisation for the provision of electronic communications networks:*

“Measures for the protection of public health against electromagnetic fields caused by electronic communications networks in accordance with Union law, taking utmost account of Recommendation 1999/519/EC.”

This is the operative condition in the EECC that recognises public-health protection against EMF as a condition attachable to authorisations for electronic communications networks. The reference to **Council Recommendation 1999/519/EC** reinforces that exposure limits, and precautionary approaches are part of the legal context.

C4. Relevant EECC Recital on Public-Health Protection (verbatim)

EECC Recital 22 – Tasks assigned

‘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’.

EECC Recital 34 – Independence

‘34. In accordance with the principle of the separation of regulatory and operational functions, Member States should guarantee the independence of the national regulatory and other competent authorities with a view to ensuring the impartiality of their decisions. This requirement of independence is without prejudice to the institutional autonomy and constitutional obligations of the Member States or to the principle of neutrality with regard to the rules in Member States governing the system of property ownership laid down in Article 345 TFEU. National regulatory and other competent authorities should be in possession of all the necessary resources, in terms of staffing, expertise, and financial means, for the performance of their tasks.’

EECC Recital 106 – Risk reconciliation duty

‘106. Where mobile operators are required to share towers or masts for environmental reasons, such mandated sharing could lead to a reduction in the maximum transmitted power levels allowed for each operator for reasons of public health, and this in turn could require operators to install more transmission sites to ensure national coverage. Competent authorities should seek to reconcile the environmental and public health considerations in question, taking due account of the precautionary approach set out in Council Recommendation 1999/519/EC’.

EECC Recital 110 – Public Health Imperative

“The need to ensure that citizens are not exposed to electromagnetic fields at a level harmful to public health is imperative. Member States should pursue consistency across the Union to address this issue, having particular regard to the precautionary approach taken in Recommendation 1999/519/EC.”

This recital emphasises the core public-health objective in relation to EMF exposure and underpins the public-health safeguard in Annex I(B)(3). Recitals do not themselves impose conditions, but they provide authoritative context for interpreting the Directive’s operative provisions.

C5. Council Recommendation 1999/519/EC – Reference Exposure Guidelines

EECC Annex I(B)(3) refers to **Council Recommendation 1999/519/EC** on limiting exposure of the general public to electromagnetic fields (0 Hz to 300 GHz). This Recommendation establishes common exposure reference levels and is recognised by the EECC as the scientific and policy benchmark for EMF public-health protections.

The guidelines are brought into use through the procedural standards agreed as EU Council Recommendation

1999/519/EC paragraph 4

'it is imperative to protect members of the general public within the Community against established adverse health effects that may result as a consequence of exposure to electromagnetic fields',

1999/519/EC paragraph 19

*'Member States should take note of progress made in scientific knowledge and technology with respect to non-ionising radiation protection, **taking into account the aspect of precaution**, and should provide for regular scrutiny and review with an assessment being made at regular intervals in the light of guidance issued by competent international organisations, such as the International Commission on Non-Ionising Radiation Protection (ICNIRP)'.*

C6. Competent Authority and Implementation Framework

Under the EEC:

- Article 6(2) obliges Member States to ensure that competent authorities have the legal and practical capacity to exercise the powers assigned under the Directive;
- Annex I(B)(3) identifies public-health protections relating to EMF exposure as a category of condition that competent authorities may attach to authorisations; and
- Recital 110 reinforces the public-health imperative underlying those protections.

Although the Directive does not itself specify national competent authorities by name, it presupposes that Member States will designate and empower authorities to attach and enforce such conditions where appropriate as part of the regulatory and authorisation framework for electronic communications networks.

C7. Assimilation into UK Law

Directive (EU) 2018/1972 was adopted on **11 December 2018** and consolidated multiple telecommunications frameworks. It was intended to be implemented by Member States by **21 December 2020**. In the United Kingdom, aspects of the Directive have been incorporated into domestic law through retained and assimilated EU law mechanisms pursuant to the **European Union (Withdrawal) Act 2018** and related transposition instruments.

While the specific mechanisms and administrative designations are a matter of UK implementation, the substantive public-health references in Annex I(B)(3) and Recital 110 remain legally relevant and influential for understanding the public-health scope of authorisation conditions for electronic communications networks.

C8. Practical Relevance to Planning Decisions

In the context of planning decisions for telecommunications infrastructure:

- Annex I(B)(3) identifies that competent authorities may attach conditions to authorisations specifically for the protection of public health against electromagnetic fields;
- Recital 110 confirms that public-health protection against harmful EMF exposure is an imperative objective; and
- Article 6(2) supports the premise that competent authorities must be empowered to act impartially, transparently, and effectively when exercising their powers.

Without detailed **site-specific exposure modelling, exclusion-zone analysis, and assessment of risks to vulnerable groups including implant users**, the conditions contemplated by those provisions cannot be given effect in a meaningful way. This reinforces the need for specific exclusion-zone modelling and health risk assessment prior to determination of the application.

EECC & 1999/519/EC Links

- [Directive \(EU\) 2018/1972](#) – Official consolidated text establishing the European Electronic Communications Code (OJ L 321/36).
- [Council Recommendation 1999/519/EC](#) – Exposure guidelines for electromagnetic fields (0 Hz to 300 GHz).

Appendix D EECC References

Extracts from [submission](#) to UK Government on implementation of the European Electronic Communications Code (EECC)

Neil McDougall & Karen Churchill – 12 September 2023

D1. Status and purpose of this appendix

The following extracts are taken from a submission made by Karen Churchill and Neil McDougall to UK Government departments on 12 September 2023 concerning the implementation of Directive (EU) 2018/1972 (the European Electronic Communications Code).

They are included to demonstrate:

- the procedural character of Council Recommendation 1999/519/EC;
- the requirement to take account of updated scientific knowledge and precaution; and
- the role of competent authorities (including local authorities acting through delegated powers) in operationalising those standards when authorising telecommunications infrastructure.

D2. Procedural standard in Council Recommendation 1999/519/EC

From the submission (quoting Council Recommendation 1999/519/EC):

Paragraph 4

“it is imperative to protect members of the general public within the Community against established adverse health effects that may result as a consequence of exposure to electromagnetic fields.”

Paragraph 19

“Member States should take note of progress made in scientific knowledge and technology with respect to non-ionising radiation protection, taking into account the aspect of precaution, and should provide for regular scrutiny and review with an assessment being made at regular intervals in the light of guidance issued by competent international organisations, such as the International Commission on Non-Ionising Radiation Protection (ICNIRP).”

These provisions were relied upon in the submission as establishing that Recommendation 1999/519/EC contains not only exposure values but a **procedural requirement** to:

- consider current scientific knowledge;
- apply precaution; and
- review decisions in light of evolving guidance (including ICNIRP).

D3. ICNIRP guidelines as part of a procedural standard (submission analysis)

From section 1.5.7 of the submission:

“The ICNIRP guidelines are not an emissions standard. Most cogently, any guidelines regarding emissions are recommended as a component part of European Council procedures, with those procedures requiring application through the transposition of the EECC into UK domestic law as a binding procedural standard.”

This passage links the procedural obligations in Recommendation 1999/519/EC to the EECC public-health framework.

D4. Procedural role of competent authorities in granting general authorisations

From section 1.7.1 of the submission:

“The procedural standard requires public health to be made imperative through the decision-making of competent authorities, by which the standard is made effective through functions that authorities perform by granting or refusing EECC general authorisations.”

And from section 1.8.1:

“LPAs/LAs ... are required to grant or refuse general authorisations ... on behalf of the UK ... through sub-delegation ...”

These passages set out the submission’s analysis that, although obligations arise at Member State level, they are given practical effect domestically through authorities exercising authorisation and siting functions.

D5 Additional quoted material from Appendix 2

Extract 1 – Children’s vulnerability

“Children are more vulnerable to environmental exposures than adults due to their developing nervous systems, higher absorption rates relative to body mass, and longer lifetime exposure.”

Extract 2 – Effects below guideline limits

“A substantial body of peer-reviewed literature reports biological effects occurring at exposure levels below current international guideline limits.”

Extract 3 – Sensitive sub-populations

“A subset of the population reports heightened sensitivity to electromagnetic fields, with symptoms triggered at levels commonly encountered in residential and public environments.”

D6. Relevance to the present objection

These extracts are included to demonstrate that:

- the need to consider updated science, precaution, and public-health protection from electromagnetic fields was raised formally with the UK Government in 2023;
- this was framed as a procedural standard arising from Recommendation 1999/519/EC and the EECC framework; and
- local decision-making bodies exercising authorisation and siting powers form part of the mechanism through which that standard is intended to be applied in practice.

Appendix E

OPINION OF ADVOCATE GENERAL KOKOTT delivered on 19 January 2023 (1)

<https://infocuria.curia.europa.eu/tabs/document?source=document&docid=269410&doclang=EN>

70. As I have already said, Article 4(5)(b) of the EIA Directive provides that the decision not to call for an environmental impact assessment must contain a statement of reasons. In that provision, the legislature gave expression to the obligation to state reasons that is

concomitant with the opportunity that must be made available to challenge that decision effectively. (30) While the Court previously considered it sufficient for that statement of reasons to be given either in the decision itself or subsequently on request, (31) it is now the case that it must form part of the decision.

71. Article 4(5) of the EIA Directive does not, however, require the competent authority to state expressly, discretely and/or specifically in which documents exactly its reasons are set out. Neither is there any indication of such a requirement in connection with Article 6 of the Aarhus Convention, (32) which was transposed by the EIA Directive. (33)

72. The competent authority or the Member State therefore retains a measure of discretion when it comes to presenting the reasons for its decision. (34) This question too is thus subject to the procedural autonomy which must be exercised within the limits set by the principles of equivalence and effectiveness. (35)

73. It would hardly be compatible with the principle of effectiveness, however, if the statement of reasons were concealed or misleading, (36) for, in that event, the enforcement of any rights in connection with the decision not to carry out an environmental impact assessment would become unnecessarily and, therefore, excessively difficult. The statement of reasons must, rather, be recognisable as such and indicate in a manner that is comprehensible from the point of view of its content the information forming the basis of the decision in question.

74. In accordance with Article 4(5)(b) of the EIA Directive and the principle of effectiveness, therefore, the statement of reasons for a decision not to carry out an environmental impact assessment must ensure that the reasons are recognisable as such and comprehensible from the point of view of their content. Whether a statement of reasons satisfies those requirements is a matter for consideration by the national court, which has the information necessary to assess whether the public in the Member State concerned was able to recognise the reasons as such and understand them.