Helen Morgan MP

House of Commons

London

SW1A 0AA

By email to: helen.morgan.mp@parliament.uk

29 July 2024

Dear Helen

**Re: Installation of Fibre Broadband - Parish of Kinnerley**

There is concern within our parish about the way the remaining fibre broadband network is being installed and I have been asked to write to you as Chair of Kinnerley Parish Council (“KPC”).

As you will know, Freedom Fibre Ltd (“FF”) has the contract under the Government’s Project Gigabit to install fibre broadband in North Shropshire (including in our Parish). For a small, underserved rural community such as ours, this is a most welcome development which is supported by the Parish Council.

However, the concern is primarily over the proliferation of new poles, and their associated wires, when every house is already served by poles and wires. This proliferation has only become publicly evident in recent weeks, by the positioning of wooden sticks along our verges and hedgerows indicating the site of new poles, bearing notices inviting contact with FF. This is a statutory requirement, giving 28 days’ notice of the intention to install a pole[[1]](#footnote-2), although FF do have permitted development rights (PDRs) to do this[[2]](#footnote-3).

FF had previously sent KPC a list of the co-ordinates for 167 locations for new poles in the parish, but we had to translate this into a map to make sense of it. At the time of sending this information FF said *“whilst we are largely able to make use of the existing network of telegraph poles and underground ducting, it is sometimes necessary to install new essential infrastructure to ensure no community is left behind.”* We posted these details on our website at the end of May for the assistance of the community (see [News | Kinnerley Parish Council](https://www.kinnerleyparishcouncil.org.uk/news)).

A number of residents did accordingly contact FF, but have had problems getting replies from them, and some have asked us to take up the cudgels on their behalf, which we did, resulting in an on-line meeting with them on 11 July. The draft notes from this are attached. The poor response rate of FF is a secondary, but still important, concern.

We seek your intervention, please, both with FF and if necessary HM Government to urge the widest possible use of existing infrastructure and the minimisation of new installations.

To elaborate further both on the sharing of infrastructure, and on communications:

**Sharing of infrastructure:**

As you will appreciate in rural areas existing over-ground utility infrastructure is an intrusive but perhaps inevitable cost of the provision of these key services. Our wish is to maximise the use of existing infrastructure and to minimise new installation which will be unattractive and intrusive. We recognise that the cost of carrying these installations underground in our context (where existing ducting may be scarce / non-existing) may be unavailable save in the most egregious cases.

Broadband companies do not have to use existing infrastructure, but there are regulations designed to encourage infrastructure sharing by using existing telegraph poles or underground ducts, rather than installing new ones. This requires a commercial agreement between the broadband company and the owner of the existing infrastructure (which may be another broadband company).

Whilst we recognise that it is not always technically feasible to utilise existing infrastructure, the 2003 Regulations do state that [companies should share infrastructure](https://www.legislation.gov.uk/uksi/2003/2553/regulation/3/made) “where practicable”[[3]](#footnote-4). Additionally, under the Communications (Access to Infrastructure) Regulations 2016[[4]](#footnote-5), infrastructure owners must respond to reasonable requests for infrastructure access. Ofcom requires Openreach (the part of BT that operates its network infrastructure) to [allow competitors to rent access to their ducts and poles on fair and reasonable terms](https://www.ofcom.org.uk/consultations-and-statements/category-2/duct-pole-access-remedies).

These measures are designed to help new entrants compete with the incumbents by reducing the cost of building new broadband networks. It is for the broadband company and infrastructure owner to decide whether in any given deployment it is “practicable” to share apparatus. There is no legal obligation to utilise existing apparatus in all cases and broadband companies are not required to demonstrate (to Ofcom or the local planning authority, for example) that it is not practicable to share infrastructure before works commence.

However, Julia Lopez MP, Minister of State for Data and Digital Infrastructure in the Department for Science, Innovation & Technology did issue a Written Ministerial Statement (WMS) on 14 March 2024 (attached for your assistance) further exhorting the joint use of existing infrastructure.

You will note from the summary of our meeting with FF that we have discussed this matter with them. Whilst they make the reasonable point that had the 14 March 2024 WMS been issued earlier they could have taken account of it when laying their plans beforehand, the requirements of the pre-existing 2003 Regulations on FF are nevertheless clear.

We have yet to be satisfied with the response of FF on these points. You will note our question in the meeting summary about the planned use of existing poles. We await with interest the information from FF later this month about the use of existing infrastructure and new build but we remain concerned that insufficient attention appears to have been made to the 2003 and 2016 regulations and guidance and to the March 2024 WMS in the current FF plans.

**Communications:**

Whilst the 2003 Regulations do not require broadband companies to consult with local residents, the Government’s 2016 [cabinet and pole siting code of practice](https://www.gov.uk/government/publications/cabinet-siting-and-pole-siting-code-of-practice-issue-2-2016) (which applies in England) states that companies should consult with local residents, although it is voluntary. Explicitly inviting feedback and then not responding would not appear to follow that Code. Broadband companies are not legally required to follow the code of practice and Ofcom, the regulator, does not have powers to enforce it.

I am copying this letter to Maya Powell at FF since we remain committed to working with them to see the installation proceed, but informed by the concerns of the community we serve. Hopefully, the replies now promised by FF will be issued and this will help to avoid siting problems, and will reassure the community.

Hopefully, with your assistance and our wish to support FF with the delivery of fibre broadband to our community, we can see this installation completed with the least need new build and with harmony with the countryside.

We would also be interested to learn if other North Shropshire parishes or residents have contacted you expressing similar views.

Yours sincerely,

Charles Green

Chair, Kinnerley Parish Council

Attachments:

* Draft notes of meeting of 11 July 2024 between FF and KPC (and Shropshire Council representatives)
* WMS of 14 March 2024
1. Under the [Electronic Communications Code (Conditions and Restrictions) Regulations 2003](https://www.legislation.gov.uk/uksi/2003/2553/contents/made), as amended, companies are [required to give 28 days’ notice to the LPA](https://www.legislation.gov.uk/uksi/2003/2553/regulation/5/made) before they install communications infrastructure (such as telegraph poles) in a new area . LPAs can use this time to raise any concerns about the proposals or to set conditions that they want the company to comply with. We are not aware that our LPA has set any conditions. [↑](#footnote-ref-2)
2. [Part 16 of The Town and Country Planning (General Permitted Development) (England) Order 2015](https://www.legislation.gov.uk/uksi/2015/596/schedule/2/part/16), as amended, sets out the types of communications infrastructure to which PDRs apply [↑](#footnote-ref-3)
3. General condition 3(4) [↑](#footnote-ref-4)
4. [The Communications (Access to Infrastructure) Regulations 2016 (legislation.gov.uk)](https://www.legislation.gov.uk/uksi/2016/700/pdfs/uksi_20160700_en.pdf) Section 6(3) [↑](#footnote-ref-5)