



Appeal Decision

Site visit made on 3 August 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2023

Appeal Ref: APP/Q9495/W/23/3318123

Land at Force Hills, Eskdale, Holmrook, Cumbria CA19 1TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Cornerstone against the decision of the Lake District National Park Authority.
- The application Ref 7/2022/4040, dated 28 April 2022, was refused by notice dated 8 September 2022.
- The development proposed is the installation of a 40m lattice tower supporting 6 no. antennas, 4 no. transmission dishes, 2 no. equipment cabinets, 1 no. meter cabinet and ancillary development thereto including a generator and associated fuel tank, a hard standing area, and a fenced compound for the Shared Rural Network project on behalf of Cornerstone.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are some differences in the name used for the woodland to the north of the appeal site. I have used the name Low and High Frith, as referenced by the Authority.

Main Issues

3. The main issues are (a) the effect of the proposal upon the landscape and scenic beauty of the Lake District National Park (LDNP), (b) the effect of the proposal on the cultural heritage of the LDNP and the English Lake District World Heritage Site (WHS), and (c) the effect of the proposal on ecologically designated sites - Low and High Frith ancient woodland and Stanley Ghyll Site of Special Scientific Interest (SSSI).

Reasons

Landscape and scenic beauty

4. The appeal site comprises open access land in an elevated location to the southern side of the Eskdale valley. Immediately to the north of the site is Low and High Frith woodland, which is designated ancient woodland and descends the valley side, towards the river Esk. Intermittent built form extends predominantly in a linear fashion along the valley floor, surrounded by pastoral farmland and woodland. To the south of the appeal site, land levels continue to rise towards Birker Fell. The landscape here and to the west is characterised by undeveloped heath grassland, interspersed with rocky crags. To the east, land levels fall towards the wooded area of Stanley Ghyll.

5. The appeal site is within the LDNP. The purposes and duty for national parks derive from statute¹. Purpose 1 seeks to conserve and enhance the natural beauty, wildlife and cultural heritage of the area. Purpose 2 seeks to promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. Additionally, there is a duty to seek to foster the economic and social well-being of the local communities within National Parks. Paragraph 176 of the National Planning Policy Framework 2023 (the NPPF) advises that National Parks have the highest status of protection and great weight should be given to conserving and enhancing the landscape and scenic beauty therein.
6. The undeveloped heath grassland of the appeal site and surroundings, provides the transition between the valley bottom and high rocky crags and open fells to the south. The Authority's Landscape Character Assessment² states that the Eskdale valley is recognised for its strong sense of isolation, tranquillity and sense of place, with an intermediate sensitivity to cumulative vertical infrastructure. Due in part to the screening of the built form present along the valley floor by woodland, and a lack of any man-made features nearby, the area of the appeal scheme shares these attributes.
7. The proposed installation would deliver shared capacity for three operators to widen the area's 4G network coverage, thereby reducing the need for multiple such installations, including I am advised, a proposed installation at Hardknott Pass. This has influenced the design and height of the tower, along with wind loading issues and the operational requirements to have a line of sight free from obstruction by buildings or trees. The Authority accepts that the proposed installation is the minimum scale necessary at this location.
8. The appellant indicates that the number and size of antennas has been kept to a minimum and positioned to avoid a bulky headframe. Remote radio units have been used to reduce ground-based equipment and the tower design is slimline, allowing light to pass through. Cabinets have been limited in size as far as possible. Colour finishes are suggested for the tower and cabinets that would further assist in assimilating the development into the setting. The proposed scheme has been sited to take advantage of the screening provided by adjacent woodland and rising land to the south.
9. I appreciate that siting options are particularly constrained at this location by landscape and ecological designations, the topography of the area, a lack of access, as well as the siting of other installations. It would not be possible to position the proposed installation outside the National Park or WHS and provide the necessary coverage.
10. The submitted Landscape and Visual Impact Appraisal (LVIA) concludes that the proposed installation would generate a moderate overall impact on the local landscape, relying in part on the small footprint of the proposal, the proximity to adjacent woodland and the scheme's reversibility. Whilst I accept that the overall footprint would be small, due to its 40m height, the appeal scheme would be substantial in scale, exceeding the height of trees within the adjacent woodland, and sited within an elevated location. The proposal would not be within the woodland, but beside it. As such, the nearby woodland would only partially screen the installation from the north. Due to its size and utilitarian

¹ National Parks and Access to Countryside Act 1949, as amended by the Environment Act 1995

² Lake District National Park Landscape Character Assessment and Guidelines, Revised April 2021

form, the proposed installation would be an obvious and incongruous feature within this open grassland setting, which is devoid of any similar man-made features. Its introduction would diminish the sense of isolation of the area, and whilst reversible, its effects would be long term.

11. Whilst there would be no harm to tranquillity post construction, given the landscape's high degree of integrity and sensitivity, the inability of the proposal to assimilate into it, and the resulting impact on its distinctive character, the landscape effects would be moderate to substantially adverse.
12. In terms of visual effects, the LVIA includes a zone of theoretical visibility (ZTV) over 5km. This shows potential visibility of the mast over a wide area in the Eskdale Valley. However, as woodland has not been included within the ZTV calculations, it is likely that visibility of the mast would be lower than projected, particularly directly north beyond Low and High Frith woodland and from the valley floor.
13. The ZTV has been used to select 6 viewpoints to represent the visual effects of the development, ranging in distance from 763m to 7.4km. Receptors at these 6 locations have all been assessed as highly sensitive and at 4 of the 6 viewpoints, the visual effects have been assessed as moderately adverse, with 2 assessed as experiencing no change. Having considered the wireframes and photomontages provided, I agree with these conclusions on the basis that whilst those experiencing this landscape would likely find the proposed installation to be an incongruous feature in the landscape, it would only represent a small portion of the view, with screening in some part by existing trees and hedgerows.
14. However, none of the viewpoints selected and assessed within the LVIA represent users of the footpath/bridleway and open access land to the immediate south and east of the proposed installation. I do not disagree with the rationale for the selection of the other 6 viewpoints with regards to the advice contained within the 'Guidelines for Landscape and Visual Impact Assessment'³. However, given the proximity of the footpaths, bridleways and open access land in and around Stanley Ghyll and leading up Birker Fell, there are likely to be highly sensitive receptors within this area also. There is no evidence before me to support the suggestion that these footpath routes have very low numbers of highly sensitive receptors.
15. Although part of the public footpath leading to Stanley Ghyll waterfall was closed at the time of my visit, I was able to access open sections, as well as the bridleway and open access land. The footpaths at Stanley Ghyll often extend through woodland, which would provide some screening of the proposed installation. However, this would not be the case in views along parts of the bridleway and open access land. Here, views of the proposed installation would be at a closer range, where the mast would form a significant new feature, resulting in a large change in the view. Given the incongruous nature of the proposal in this landscape setting, it would have an adverse impact on visual amenity. Whilst these effects would be reversible, they would be long term and substantial. Given the size of the tower, the proposed stone wall and planting to the compound would provide limited mitigation visually.

³ Guidelines for Landscape and Visual Impact Assessment Third Edition, prepared by Landscape Institute and Institute of Environmental Management and Assessment.

16. Interested parties suggest that the selected viewpoints are not representative of views from elevated locations on rising land to the northern side of the valley, only from the valley floor. However, given the intervening distance and the backdrop of rising land, it is unlikely that the proposed installation would impact substantially on views from more elevated locations on the opposite side of the valley.
17. The appellant sets out that underground cabling of the permanent power supply to the mast would be possible. A condition is suggested to control no overland supply, which would ensure no additional landscape and visual impacts arising from this cabling. However, routing of the cabling has not been provided and so it is unclear if this could be achieved without adverse impacts to nearby ecologically designated sites, a point which I will return to below. As such, it is not possible for me to conclude from the information before me that additional landscape and visual harm would not arise in this respect.
18. To conclude on this main issue, the proposed installation would harm the landscape and scenic beauty of this part of the LDNP, conflicting with Policies 01, 02, 05 and 06 of the Lake District National Park Local Plan⁴(LP), which collectively and amongst other matters, seek to ensure that new development is of a scale and nature appropriate to local character, which conserves and enhances the extraordinary harmony and beauty of the Lake District landscape. Similarly, the proposal would be contrary to Paragraph 174 of the NPPF, which requires decisions to protect and enhance valued landscapes.

Cultural heritage

19. The purposes of the National Park includes to conserve and enhance cultural heritage. Additionally, the Eskdale valley lies within the WHS designation. As such, it is a heritage asset of the highest significance, recognised internationally to be of outstanding universal value. Paragraph 199 of the NPPF states that great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be), irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
20. Nomination documents⁵ for the Eskdale valley state that it contains a number of attributes that are recognised as contributing to the outstanding universal value of the WHS. These include the extraordinary beauty and harmony of the landscape, open fell grazing practices that continue traditional agro-pastoralism, as well as opportunities for quiet enjoyment. Further, it states the Eskdale valley is rich in the harmonious beauty which derives from the relationship of traditional farming with the natural landscape and that the integrity of the landscape attribute is high, with very little modern development.
21. I have found that the proposal would result in harm to the natural landscape of this part of the valley. As the significance of the WHS derives in large part from the integrity of the landscape, the harm identified would negatively impact its significance, failing to conserve or enhance this heritage asset as required by LP Policy 07. The Authority considers that this harm would be less than

⁴ Living Lakes Your Local Plan Lake District National Park Local Plan 2020-2035, Adopted May 2021.

⁵ Nomination of the English Lake District, Volume 2 Valley Descriptions and History.

substantial and from the evidence before me, I have no reason to disagree. I will return to this matter in my Heritage Balance below.

22. A number of listed buildings and a registered park and garden are noted in the locality. The evidence before me suggests that the intervening distance, landform and woodland would ensure that the proposed installation would be unlikely to have any material impact on the settings of these designated heritage assets. As such, any significance derived from their settings would be preserved. I note that the Authority has raised no concerns in this respect.

Ecologically Designated Sites

23. The Authority refers to Low and High Frith woodland as Ancient Semi Natural Woodland (ASNW), whilst the Arboricultural Report (AR) prepared by ACS Consulting states that this is a Plantation on Ancient Woodland Site (PAWS). Both fall within the definition of ancient woodland within the NPPF.
24. The AR responds to concerns raised by the Authority and the Woodland Trust. In particular, the report provides a reasonable justification to conclude that the proposed installation is unlikely to pose any risk to tree roots despite being within 15m of the woodland boundary, because of wet ground conditions that would not be conducive to root growth. The AR also sets out that physical conditions at this location would have implications for optimal tree growth, indicating a considerable timescale before the proposals could result in future pressure to manage the woodland canopy. Based on this information, it is unlikely that the installation, once operational, would result in any material loss or deterioration of irreplaceable habitat. Suitable precautionary measures for the construction phase of the development could be secured by the imposition of a condition requiring submission of a detailed Construction Environmental Management Plan (CEMP).
25. Additionally, the site lies uphill of the Stanley Ghyll SSSI. The submitted Ecological Assessment (EA) indicates that the features of the SSSI are aquatic related and that the risks arising from the proposed development relate to pollution type events, either during construction or once operational from the fuel tank and generator. The EA includes a number of mitigation measures to address this, including the outline points to be covered by a CEMP. Based on this information, I am satisfied that suitable conditions could be imposed to secure the mitigation measures contained in this report, in order to minimise any risks to the SSSI from both the construction and operational phase of the proposed installation. As well, the mitigation measures therein would be adequate to minimise any effects on the other habitats and species identified in the report, and to deliver biodiversity net gain.
26. However, no routing of the power supply to the proposed installation has been provided, and neither the AR, or the EA, provide any assessment of the potential effects this could have on ecological designations. I have not been provided with the physical extent of these designated sites, to establish whether the route of any cabling could avoid them. Whilst I have been provided with an example of the Authority controlling this by condition elsewhere in the National Park, it is unclear if in that case, the development was located close to ecological designations, as is the case here.
27. As such, the evidence before me is not sufficient to enable a judgement to be made on the potential impacts of this aspect of the proposal on important

habitats, or any mitigation/compensatory measures that could be necessitated and implemented. Without this information, I cannot rule out harm or undertake the balancing exercises required by either LP Policy 04 or Paragraph 180 of the NPPF. Therefore, I cannot conclude that the proposal would not conflict with LP Policy 04, which seeks to ensure that proposals protect important habitats, sites and species, unless any harm is clearly outweighed by the need for the development. Nor can I conclude that the requirements of NPPF Paragraphs 179 and 180 to protect and enhance biodiversity and geodiversity are met.

Heritage Balance

28. I have identified above that the scheme would cause less than substantial harm to the heritage significance of the WHS. NPPF Paragraph 202 requires that less than substantial harm to the significance of a designated heritage asset is balanced against any public benefits.
29. In terms of public benefits, the proposed installation would provide 4G coverage for up to 3 operators as part of the Governments Shared Rural Network (SRN) project, which seeks to improve digital connectivity in rural areas.
30. The NPPF recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology. I have also had regard to the additional documents provided by the appellant which re-iterate the importance of high-quality communications infrastructure at the local and national level.
31. The Eskdale valley is a living and working environment. Providing coverage for up to three additional operators, would improve network coverage and consumer choice. The opportunities for better connectivity would help reduce the digital divide between urban and rural areas by benefitting people and business, including through economic growth, tourism and the visitor experience, and social well-being. The appeal scheme would likely improve access to emergency services, including Search and Rescue, as well as remote access to health, education and other digital services and information. Opportunities for home working could also improve. In turn, this could reduce the need to travel by car and the associated carbon emissions. It may help in retaining young people in the area, or attract newcomers.
32. Thus, the proposal has the potential to deliver many social and economic benefits. If planning permission is refused, then the opportunities for delivering these benefits could be lost, particularly as the SRN extends to 2025 only, and otherwise, financial barriers may discourage development at such remote locations. I can also appreciate the difficulties in bringing such schemes forward, given the number of bodies involved in the SRN project and land ownership constraints.
33. Indeed, the benefits of the proposal would foster the economic and social well-being of the local community in accordance with the National Park duty. I note that the scheme has attracted both objection and support, the latter including Eskdale Parish Council, a local ward Councillor, and members of the public. Copeland Borough Council raised no objection to the proposal and a letter from

local MP's encourages collaboration with Cornerstone in respect to schemes under the SRN project.

34. I appreciate that there is no requirement within the NPPF for developers to select the best feasible siting. Nevertheless, it remains a matter of dispute between the main parties as to whether alternative options for siting the installation and thereby delivering these benefits, have been exhausted. The Authority does not consider the 7 discounted sites to be an exhaustive list and indicates that in other cases, reduced levels of coverage have been accepted. I acknowledge that no alternatives have been proposed by the Authority. However, it would be difficult for the Authority to pinpoint specific feasible alternative sites, given the technical supporting information required.
35. Given the not insignificant geographical extent of the search area, limited information has been provided to justify the selection of only 7 alternative sites for consideration within this area and the reasons for discounting other possible locations. As such, the information before me does not demonstrate conclusively that the area in question has been exhaustively assessed.
36. Further, of the 7 possible alternatives considered, a common theme applicable to several of the discounted options is that they would not deliver the same level of coverage as the appeal scheme (options D1, D2, D5, D6 for example). I have been provided with coverage maps to assist in demonstrating this. However, given the mapping resolution and the sparsely populated nature of the area, it is difficult to interrogate this information and precisely quantify the extent to which coverage would be reduced for people and businesses. In any event, whilst it may not be ideal that these potential alternative options would not achieve the same level of coverage as the proposed installation, they could still provide many of the social and economic benefits that would result from the appeal scheme, either alone or in combination with other installations that may not have yet come forward. It has not been clearly demonstrated otherwise.
37. In summary, the various public benefits that would be brought about by the scheme as discussed above, attract significant weight in cumulative terms. However, in my judgement, especially when factoring in the possible availability of alternative options, these benefits would not be so substantial to outweigh the less than substantial harm that I have identified would be caused to the significance of the WHS, an asset internationally recognised to be of Outstanding Universal Value.

Overall Planning Balance

38. Given the landscape quality, scenic beauty and the cultural heritage of the area, there is clear tension between increasing telecommunications coverage and meeting the purposes of the National Park. In some cases, the benefits of communication infrastructure will be sufficient to outweigh any identified harm, as illustrated in other appeal decisions referenced by the appellant. However, each case must be assessed on its individual planning merits.
39. At this site, in addition to the harm to the WHS and associated conflict with LP Policy 07 that I have identified, the proposal would result in harm to the landscape and scenic beauty of this part of the LDNP, conflicting with LP Policies 01, 02, 05 and 06. Further, as I have not been able to rule out harm to ecologically designated sites, I have identified conflict with LP Policy 04.

40. As required by the NPPF, I give great weight to conserving and enhancing the landscape and scenic beauty of the National Park, and attach considerable importance and weight to conserving the WHS. The public benefits of the proposal, as identified above and relating to the improvement of communications infrastructure, are significant, and I have carefully considered the risk to these benefits being delivered, should planning permission for this scheme be refused. However, on the basis of the evidence before me and in the particular circumstances of this case, the public benefits do not outweigh the identified harms. The proposal conflicts with the development plan when read as a whole, and material considerations, including the NPPF, do not lead me to conclude otherwise.

Conclusion

41. For the reasons outlined above, the appeal should be dismissed.

S Brook

INSPECTOR