



Appeal Decision

Site visit made on 13 February 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2024

Appeal Ref: APP/C9499/W/23/3323272

Land at Hogs Hill, Barbon Low Fell, off Fell Road, Casterton, Carnforth, Cumbria, LA6 2JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Cornerstone against the decision of Yorkshire Dales National Park Authority.
 - The application Ref S/05/49, dated 7 June 2022, was refused by notice dated 2 December 2022.
 - The development proposed is installation of a 25m 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, fenced compound, hard standing, and an access track for the shared rural network project on behalf of Cornerstone.
-

Decision

1. The appeal is allowed and planning permission is granted for installation of a 25m 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, fenced compound and hard standing for the shared rural network project on behalf of Cornerstone on land at Hogs Hill, Barbon Low Fell, off Fell Road, Casterton, Carnforth, Cumbria LA6 2JP in accordance with the terms of the application, Ref S/05/49, dated 7 June 2022, subject to the conditions set out on the attached schedule.

Procedural Matters

2. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulation 14 (1) and 7 (5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.
3. An update to the National Planning Policy Framework (the Framework) has been published dated 19 December 2023 but there are no material changes relevant to the substance of the appeal.
4. During the course of the application, the proposed access track was removed from the scheme and the access track does not therefore form part of the development subject to this appeal. As such, I have omitted reference to the access track in the terms of my decision.

Main Issue

5. The main issue is the effect of the proposed development on the scenic beauty and intrinsic character of the National Park landscape.

Reasons

6. The appeal site is located at Hoggs Hill, Barbon Low Fell, Casterton within the National Park landscape. It is accessed from Fell Road to the south which is a single-track lane with the site sitting approximately 570 metres to the north of this lane. Access is gained by walking up a steep uneven terrain to the site which is at the junction of two dry stone walls at a high point. The surrounding area is inherently rural in character, comprising moorland fells, rough grass, bracken, and wet rushes. It is located within a very remote, quiet, and tranquil area within the National Park where extensive and panoramic views across the wider landscape can be had. This is due to the large areas of open, uninterrupted upland and sweeping fell sides with lack of tree coverage and built form nearby with only very few houses and farms in the wider area. Such houses and farms generally sit at low level and are well established in the landscape owing to their age and vernacular style and thus sit relatively quietly within this setting. A number of electricity cables on timber poles run across the hillside but are not dominant/notable features largely due to them running along the hillside at a much lower height and thus not sky lined and are set against the backdrop of the hills which helps to screen the cables. There are no overtly vertical features within the landscape.
7. The area comprises open access land which is available for all to walk on and at the time of my site visit whilst only a snapshot in time, I observed that the surrounding area was well used by walkers and other visitors with a network of nearby public footpaths and roads.
8. In considering the proposal, I have had regard to the purposes of National Parks as set out in the Environmental Act, 1995 as well as paragraph 182 of the Framework which explains that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and Areas of Outstanding Natural Beauty.
9. The proposed development seeks permission for the installation of a 25m lattice tower mast with 6 x antennas and 4 x transmission dishes on it. Two equipment cabinets, 1 meter cabinet and other ancillary development including a generator and associated fuel tank to be sited in the compound. The compound would be bound by a dry-stone wall and an area of external hardstanding is proposed to the east of the compound.
10. Whilst the tower would not be visible in close views from Fell Road given the topography of the land. It would be visible including glimpsed views from the open access land around it and from the nearby public footpath and ridges within the area. The proposed lattice design, height, and location up the steep terrain would also result in it being visible from longer range views in this part of the National Park where there are clear views of the fells. It would therefore introduce a highly incongruous, vertical structure within the landscape currently characterised by a distinct lack of built form other than very low-level farms and dwellings.

11. As set out, there are other vertical man-made elements in the area in the form of electricity cables on timber poles crossing the landscape. However, these are not of the same height or design as the proposed tower, which would be more prominent.
12. A Landscape and Visual Impact Assessment has been undertaken which establishes an area of influence of the site and surrounding landscape likely to be affected by the proposed development. It assesses the landscape characteristics, views of the site from the surrounding areas, the location and sensitivity of visual receptors and the potential landscape and visual effects arising from the development. Within the scoping process, the key viewpoints that impacted the highest number of highly sensitive receptors were assessed taking into account the Guidelines for Landscape and Visual Impact Assessment Third Edition prepared by The Landscape Institute and Institute of Environmental Management and Assessment. I have no reason to question the overall methodology carried out or any substantive evidence to the contrary. Six viewpoints were identified with visual photomontages included which I have had due regard to. Following the assessment of sensitivity and magnitude, the overall effect has been established. It concludes that 2 out of the 6 viewpoints, the mast results in a moderate effect with the others identified as neutral.
13. Notwithstanding, the lattice tower would still have a clear visual impact, contrasting with the prevailing character of the National Park landscape. Despite the lattice design of the tower, the overall height, and antennas/dishes at the top of the tower would draw the eye. The visual impact would be negative as it would be a modern utilitarian feature with vertical prominence, thereby being incongruous in the National Park landscape. The greatest changes relate to receptors closest to the site at viewpoint 1 identified as having a moderate effect. The backdrop against a number of undulating hills would help to mitigate some of the visual effect of the proposal so that a large proportion of the tower would not be seen in the context of the open sky and where such views are had, its recessive colour would help it to blend in with an often grey sky. A new stone wall is also proposed to help screen the cabinets and base of the mast. In terms of viewpoint 3 also identified as having a moderate effect, only the top of the tower would be partially visible given the existing steep topography of the land. The base of the mast or cabinet would not be visible. This would go some way to help its overall visual impact but would not be sufficient to enable me to conclude that it would not have a negative visual impact in this sensitive setting.
14. Given that I have found that the proposal would not blend into the landscape despite the above factors, it follows that the proposal would fail to conserve the scenic beauty and intrinsic character of the National Park landscape. I therefore find that the proposed development would conflict with Policy S28 of the South Lakeland Local Plan, 2006 and Policies CS7.4, CS8.1 and CS8.2 of the South Lakeland Local Development Framework Core Strategy, 2010 which together, amongst other matters, seek to protect and enhance landscape and settlement character requiring proposed masts and equipment to not be unduly prominent in the landscape. For the same reasons, the proposed development would also conflict with the first statutory purpose of the National Park (Environment Act 1995) and paragraph 182 of the Framework which together, amongst other matters, explains that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and Areas of Outstanding Natural Beauty.

Planning Balance

15. Paragraph 118 of the Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high-quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).
16. Paragraph 119 explains that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings, and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.
17. Paragraph 121 goes on to explain that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.
18. The scheme is for the Shared Rural Network (SRN), a government backed scheme between the mobile network operators to get geographical coverage from at least one operator over 95% of the country by the end of 2025. Supporting information has been provided which notes that the application is to provide increased geographic coverage for three mobile network operators on a single mast. This is to improve 4G connectivity for people living, working, travelling, and visiting the area and to deliver improved digital infrastructure. This area has been identified as a "not spot" and whilst there may be very few people living in the area that would benefit from the installation, it has been stated that the mast will provide links so that users of the landscape can have access to mobile phone connections, leisure apps and mapping information as they pass through. Based on the evidence before me, the installation is required in this part of the National Park to bring much needed coverage to the Casterton area in line with the Government backed SRN programme. A before and after coverage map has been provided that indicates that the coverage of the new mast would include areas of Barbondale and around Bull Pot Farm and areas of Casterton Fell and some parts of the wider Lune Valley and would therefore improve coverage significantly across a wide geographic area. Even if there is some alternative network coverage in the area and other masts, it is still not comprehensive coverage with no provision in parts. I also cannot be certain that such areas are infrequently used by traffic and visitors particularly given my observations onsite and in busy visitor periods/certain times of the year given the natural beauty of the National Park and open access of the land which ultimately attracts visitors.
19. It is clear that there are public benefits associated with provision of enhanced digital communication including benefits to the wider economy, improved

connectivity for residents, visitors, businesses, industry, and other sectors, emergency service connection and ensuring continuous coverage. Further, the appellant has followed a sequential approach in relation to their site selection which investigated various siting and design options which are in a geographically constrained cell search area. This is made even more constrained given that this element of the SRN programme is for three operators to share one installation so it requires all three operators to agree that the proposed site location is feasible for their network and will fill the hole in their coverage within the cell area.

20. I have had regard to the specific requirements for such telecommunications and location of the alternative sites explored by the appellant and the explanation on why these were discounted. The appellant has provided adequate justification for discounting other sites including matters relating to insufficient coverage, viability, physical access constraints and unstable ground conditions. I am also aware that it is not possible to site the equipment outside the National Park because the whole of the cell area is located within it. Based on the evidence before me, I am satisfied that other alternative siting solutions have been adequately explored by the appellant and have been found to have been unsuitable for the proposal and that the site in question is the only suitable option within the operators search area which would provide the necessary coverage to the target coverage area. Furthermore, there is no counter evidence before me which would lead me to come to a different conclusion.
21. I am fully aware that the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. However, on balance, the harm identified would be outweighed by the considerable public benefits. Consequently, this material consideration outweighs the conflict with the development plan in the particular circumstances of this case.

Other Matters

22. I am aware that a previously proposed track has been omitted from the scheme and as such, the whole build would therefore be carried out by helicopter with all materials, equipment and staff being transferred to the site by helicopter. I am aware of the concerns raised in this regard relating to matters of noise and disturbance. However, details relating to this are limited and I cannot therefore conclude with certainty that the scheme would have an unacceptable adverse impact in this regard. Given that any noise and disturbance associated with the use of the helicopter would be during the construction period only and therefore not long term or permanent then I am satisfied that the proposed development would not result in an unacceptable level of harm in this regard. Further, a condition requiring a Construction Environmental Management Plan to be submitted would ensure the environmental sustainability of the proposed development during the construction phase which I have applied. Any other likely noise sources associated with the scheme such as generators etc would be unlikely to be heard from residents living in the area given the separation distances involved and topography of the land. Visitors to the area are also unlikely to be unduly harmed by any potential other noise sources given the overall nature of the open access where movement across the land takes place opposed to stationary movements including at distances away from the site.

23. I have no compelling case to suggest that the proposed development would unacceptably affect local water supplies, Sites of Specific Scientific Interest or flora and fauna. There is also no compelling case to suggest that the proposed development would have a detrimental impact on highway safety particularly given that the previously proposed track has been omitted from the scheme. Reference has also been made to previously refused schemes. However, I have determined this appeal based on its own merits. Matters relating to financial gain has not affected my findings.

Conditions

24. I have considered the Council's suggested planning conditions in light of the Framework and Planning Practice Guidance. As a result, I have amended these where necessary for clarity. The standard time for commencement of development is necessary as well as a plans condition in the interests of certainty. A condition relating to a Construction Environmental Management Plan is necessary to ensure the environmental sustainability of the proposed development during the construction phase. Conditions relating to materials and enclosure of a drystone wall is necessary to preserve the character of the National Park landscape. A condition relating to the removal of the equipment when they cease use is necessary in the interests of visual amenity.

Conclusion

25. For the above reasons, the material considerations indicate that this decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal is allowed.

N Teasdale

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development must be begun within three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Map Drawing No. 100 Rev C; Detailed Site Location Map Drawing No. 101 Rev C; Proposed Site Plan Drawing No. 201 Revision D; Proposed Site Elevation Drawing No 301 Rev C.
- 3) Prior to the commencement of any works a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to the first use of the equipment hereby approved, the lattice tower shall be a galvanized colour, any antenna, dishes, and any other associated equipment mounted to the mast shall be finished in the colour RAL 7035 – Light grey, any ground mounted equipment shall be finished in RAL 6022 – Olive Drab and they shall all be maintained as such thereafter.
- 5) Prior to the first use of the mast and associated equipment hereby approved, the compound shall be enclosed with a drystone wall constructed from limestone to match in style nearby walls, to a minimum height of 1.5 metres, as indicated on Proposed Site Plan (drawing no. 201D) and shall be retained as such thereafter.
- 6) When the lattice tower and associated antenna, dishes, equipment cabinets and any other associated equipment, the subject of this permission, cease to be used for the purpose for which they were installed, they shall be removed from the site and the ground made good as soon as is reasonably practical.

End of schedule