



Appeal Decision

Site visits made on 20 February and 25 March 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/F9498/W/23/3324639

B3223 Near Simonsbath, Simonsbath, Somerset TA24 7JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Hutchison 3G UK Ltd against the decision of Exmoor National Park Authority.
 - The application Ref GDO 23/07, dated 13 April 2023, was refused by notice dated 13 June 2023.
 - The development proposed is a telecommunications installation: proposed 20.0m high Swann Lattice Tower C/W Headframe on new 7.0m x 1.0m RC concrete base and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), under Article 3(1) and Schedule 2, Part 16, Class A require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of the appeal has been undertaken on the same basis.
3. There is no requirement within the above referenced provisions to have regard to the development plan as there would be for any development requiring planning permission. The main parties have referred to Policies CE-S1, CE-D1 and AC-D5 of the Exmoor National Park Local Plan (2017) (LP), and as they relate to issues of siting and appearance I have had regard to these policies in my determination of the appeal. Similarly, I have also had regard to objectives of the National Planning Policy Framework (the Framework), in particular those supporting high quality communications and conserving and enhancing the natural environment.
4. The appeal site lies within the Exmoor National Park. Under the requirements of the Environment Act 1995 there is a duty to conserve and enhance the natural beauty, wildlife and cultural heritage of national parks. I have had regard to this requirement in my consideration of the appeal.

5. The original application gave the post code for the site address as TA24 7JX. However, this postcode is for a location some distance away from the appeal site. The main parties have cited map co-ordinates to describe the site address, and very close to the appeal site is Cloven Rocks Cottage. The postcode for this property more accurately describes the location of the appeal site, is broadly consistent with the map co-ordinates, and reflects what I saw on site. Consequently, I have referred to this postcode above.
6. The original application form describes the mast as being 20.0m high, albeit local residents have pointed out incidences in the appellant's appeal evidence where the mast is described as 25m high. Notwithstanding these references, the original application description, that upon the appeal form and the submitted drawings all refer to the mast being 20.0m high. This is the basis upon which the Authority determined the scheme, and for the avoidance of doubt, so shall I.

Main Issue

7. The main issue in this case is the effect of the siting and appearance of the proposal upon the character and appearance of the area, having particular regard to the location of the installation within the Exmoor National Park, and, if any harm would occur, whether this would be outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

8. The appeal site is positioned upon a hillside, and the proposed mast and its ancillary equipment and compound would be in the northernmost corner of a large field near to the access track to Cloven Rocks Cottage and the B3223 road. Along the road there is a mature hedge that delineates the field, and to one side of the track to the cottage is a hedgebank that includes mature trees. Beyond the track is an area of woodland which extends along the road and also down into the sharply incised valley.
9. A distinct feature of the area is the extensive panoramic views of the hills and valleys. The rich tapestry of the landscape comprises fields, woodlands and moors, with the latter dominating the higher land. Settlements and farmsteads are mostly upon lower land or tucked down within valleys, and the absence of development upon the high ground gives it a remote, expansive quality. There is a strident and attractive juxtaposition between the open, undeveloped and expansive nature of the moors compared to the fields and their hedges and scattered woodlands. These contrasts give the landscape a unique, and distinct appearance.
10. Although the mast would be near to mature trees, given its height and position high up upon a hillside it would be visible from long distances away, including from a variety of public rights of way and viewpoints. The mast would be the lowest height that would provide coverage for the operator, but despite this it would be taller than the nearby woodland trees, and also taller than those within the hedgebanks that delineate the track and road. Whilst the appellant's Landscape and Visual Impact Assessment (2023) considers the landscape and visual impacts of the scheme would be moderate to slightly adverse, the mast would be an intrusive and eye-catching feature within the area, and it would be particularly visible from views from the south and also from the higher land to

the north and east. The impact of the mast would be such that it would be experienced from very long distances away, such as when approaching Simonsbath from Blue Gate.

11. From certain views the lower part of the mast would be screened by the trees and hedges, such as when approaching from the east along the B3223. Despite this, the mast would be visible projecting high above the tree canopy, and its disruptive intrusion beyond the skyline would be harmfully apparent. In an area that is characterised by the remote, undeveloped, and imposing domination of the landscape, whether it be pastoral or the moors, the mast would be an intrusively strident interruption that would harmfully draw the eye. This harm would be compounded as the mast would introduce an overtly modern structure into a landscape where most buildings and settlements are positioned lower down the hillsides.
12. I have had regard to the objectives of LP Policies CE-S1 and CE-D1 as these require high quality development that complements the landscape and minimises its visual impact. In addition, LP Policy AC-D5 refers to the requirements for radio and mobile telecommunications infrastructure, and prioritises mast share. Where this cannot be achieved, new masts should be sited and designed to ensure that they have an acceptable appearance in the landscape, including through camouflage as a natural or traditional feature. The mast would have a lattice tower so as to minimise its visual impact, and the appellant has also suggested that it could be conditioned to be coloured. However, the Order does not provide any specific authority for imposing conditions beyond those deemed. Irrespective of such a suggestion, the colour of the mast would do little to ameliorate the impact of its tall height and overtly functional appearance, the incongruous impact of which would be apparent from long distances away. Moreover, landscaping cannot be relied upon to screen the mast for its lifetime, particularly so in this case as not only would such screening be partial, but the trees are not in the control of the appellant.
13. The mast's compound would have a compact footprint with access provided through the existing field gates. Even if the ancillary equipment cabinets would be permitted development as stated by the appellant, extensive land levelling works would be required, and the compound would be surrounded by a timber fence. From certain views the starkly functional, engineered appearance of the compound and ancillary equipment would serve to exaggerate the intrusive incongruity of the mast within the area.
14. The Framework expects evidence to be provided to demonstrate that other alternative locations have been considered. In this case there are two other masts nearby, including one higher up the hillside to the north east of the appeal site. This mast is within a copse of evergreen trees, and the top section is visible above their crowns. Given this, from several public vantage points the proposed mast would be in very close proximity to the existing mast at Warren Farm. The presence of two prominent masts within such a remote rural location would appear conspicuous in such a context, thereby harmfully exaggerating the disruptive impact of the mast within the landscape, as well as being contrary to the above referenced LP policy objectives of ensuring that cumulative landscape effects do not detract from the natural beauty of the National Park.

15. Mast sharing has been discounted by the appellant, as has the use of existing tall buildings such as the church, and other sites that are too low down to provide coverage. Local residents and interested parties have pointed out that target and search areas have not been provided. Having regard to the proximity of two nearby masts, such information would demonstrate the target area of that proposed and also provide additional evidence of why other alternatives have been rejected. Given this, it cannot be assumed that more suitable sites are not available.
16. The mast would provide 4G connectivity to the area, targeting provision for Simonsbath, and the provision of such a service would be of benefit to the local population and businesses, thereby in accordance with objectives of national policy. However, there would be short, medium and long distance views of the mast, and it would appear intrusive, introducing a conspicuously modern man-made landmark structure in a prominent location that would unacceptably erode the landscape and scenic beauty of the National Park.
17. Given my findings, the mast would unacceptably harm the distinct character and appearance of the area, and the harms to the landscape and scenic beauty of the National Park would be unacceptable and wide ranging. These substantial harms would not be outweighed by the need for the installation to be sited as proposed taking into account other alternative sites.

Other Matters

18. The appellant has referred to various social and economic benefits arising from the scheme, including to local residents, business and tourists. However, the requirements of the Order are such that the scheme is assessed on the basis of matters of siting and appearance, and I have considered the appeal on that basis.
19. Concerns from the appellant regarding the Authority's handling of the application, including comments from consultees, relate to procedural matters and have no bearing on my consideration of the planning merits of the case.
20. Local residents have raised a number of other matters, including water supply, and lack of engagement with the local community. Land ownership and associated rights would be for the relevant parties to resolve, and as regards the other concerns, following my findings on the main issue, I have no need to consider them further.

Conclusion

21. Thus, for the reasons given above and having considered all matters raised, the appeal is dismissed.

JJ Evans

INSPECTOR