



Appeal Decision

Site visit made on 11 June 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal Ref: APP/U2750/W/24/3342345

Land at In Moor (Dis) Quarry, In Moor Lane, Middlesmoor, North Yorkshire HG3 5SU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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) (GPDO).
- The appeal is made by Cornerstone against the decision of North Yorkshire Council.
- The application Ref is ZC23/02902/PNT56.
- The development proposed is installation of 20m slimline lattice tower supporting 6no. antennae; 4no. dishes; 2no. equipment cabinets; 1no. electric meter cabinet and associated ancillary equipment.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the GPDO for the siting and appearance of installation of 20m slimline lattice tower supporting 6no. antennae; 4no. dishes; 2no. equipment cabinets; 1no. electric meter cabinet and associated ancillary equipment at land at In Moor (Dis) Quarry, In Moor Lane, Middlesmoor, North Yorkshire HG3 5SU in accordance with the terms of the application Ref ZC23/02902/PNT56.

Preliminary Matters

2. For the sake of clarity and brevity I have taken the description of development from the Council's decision notice.
3. As this is an application for prior approval the provisions of the GPDO 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. This appeal is determined on the same basis.
4. The Council have stated that following the submission of a revised ecology report and Habitat Regulation Assessment, the second refusal reason is no longer relevant. I have determined the appeal on this basis.

Planning Policy

5. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the Harrogate District Local Plan March 2020 (HDLP) and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.
6. On 30 July 2024 the Government published a consultation on "Proposed reforms to the NPPF and other changes to the planning system" and the

“National Planning Policy Framework: draft text for consultation”. A Written Ministerial Statement entitled “Building the homes we need” was also published on 30 July 2024. I have had regard to these publications in the determination of this appeal.

Main Issues

7. The main issues are the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding landscape and Nidderdale Area of Outstanding Natural Beauty (AONB) and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

8. The appeal site is located within the Nidderdale AONB being open countryside and a relatively isolated location. The site is also within “Landscape Character Assessment Area 1: Gritstone Moor vast open Upland Landscape”. The landscape in this area is described as an elevated plateau flat to slightly undulating upland above 300m AOD and consisting of broad upland ridges above the Nidderdale valleys.
9. Due to the elevated position of the appeal site and the scale of the proposal, the proposed tower and associated antennas, dishes and equipment would appear as incongruous and intrusive features within the surrounding landscape.
10. A Landscape Visual Impact Assessment (LVIA), Zones of Theoretical Visibility and photomontages have been submitted. The LVIA concludes that the proposal would appear uncharacteristic of the surrounding landscape, forming a visual detractor within views where it is visible, although this would generally form a minor element within wider views, particularly when viewed from distant locations. The LVIA further concludes that all the adverse effects from the proposal would be moderate adverse or less, indicating that the site and study area has the potential to accommodate the proposal.
11. The proposal would be prominent, particularly from closer views including from Public Rights of Ways (PROW) and would be a discordant structure that would detract from the sensitive nature of the surrounding landscape, with minimal prospect of substantial screening from existing or proposed woodland. The proposal would have a harmful effect on the character and appearance of the surrounding landscape and Nidderdale AONB.
12. Given the reduction in height of the tower from previous proposals, the lattice design of the tower, the use of low dry stone walls, the omission of a vehicular access track, and the restoration of heathland in the immediate area, I therefore attribute moderate weight to the harm the proposal would have on the Nidderdale AONB and surrounding landscape.
13. A sequential approach on site selection has been submitted with around 10 sites identified and all discounted for various reasons including ground levels, coverage, Ofcom requirements, construction requirements and stability, visibility and effect on heritage assets, landscape and surroundings. Beyond these specific alternative sites, the appellant also explains that the proposal could not be located on land to the north, south, east and west of the appeal site. The explanations include ground levels being low and therefore would affect coverage, ground levels being above the proposed site level meaning the

proposal would be visually more prominent, being located outside the optimal area for operators coverage, the geography of the land effecting construction, and proximity to PROWs and highways.

14. Whilst these alternative sites have not been included within the LVIA, a suitable assessment of these sites and the general area around the appeal site has been undertaken in terms of the effect a telecommunications proposal would have on the character and appearance of the area. I am satisfied that alternative sites for the proposal have been fully explored and the reasons for discounting other sites in the required area are justified.

Other matters

15. I have had regard to comments from local residents which include matters relating to mobile connectivity, location, coverage, proliferation of phone masts, effect on character and appearance, and alternative site options. These matters do not alter my findings in this decision.

Planning Balance

16. There is a need in the location of the appeal site for the provision of rural mobile coverage. This proposal would bring public benefits, delivering reliable mobile connectivity, through a shared rural network, that would provide an efficient and competitive telecommunications system for businesses and the community, contributing to the delivery of economic growth, in a sustainable way, as well as enhancing local facilities and services.
17. The proposal would result in significant public benefits to the area, and it has been satisfactorily evidenced that there are no other suitable alternative site options for the proposal. The benefits of the proposal would outweigh the moderate harm I have attributed to the effect on the character and appearance of the surrounding landscape and Nidderdale AONB.

Conditions

18. Planning conditions have been suggested by the Council. However, the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Chris Baxter

INSPECTOR