



Appeal Decision

Site visit made on 29 October 2024

by U P Han BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2024

Appeal Ref: APP/R3705/W/24/3347218

Land at Gypsy Lane, Water Orton B46 1PB

- 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).
 - The appeal is made by Cornerstone against the decision of North Warwickshire Borough Council.
 - The application Ref is PAP/2023/0398.
 - The development proposed is the installation of a telecommunications base station comprising 25m lattice mast supporting 6 no antenna, 4 no dishes, together with ground-based equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) 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 has been determined on the same basis.
3. The Council and the appellant refer to development plan policies. However, the principle of development is established by the GDPO 2015. I have therefore had regard to the policies of the development plan only insofar as they are a material consideration relevant to matters of siting and appearance.
4. The Council has referred to Policy LP3 of the North Warwickshire Local Plan (September 2021) (NWLP) in reason for refusal 1 which applies to proposed development in the Green Belt, but not specifically to telecommunications development. Since the principle of development is established by the GDPO 2015, the question of whether the proposal represents inappropriate development in the Green Belt does not arise.

Main Issue

5. The main issue in this appeal, therefore, is the effect of the siting and appearance of the proposed installation on the character and appearance of the area 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

Siting and Appearance

6. The appeal site is on the eastern edge of a large pasture adjacent to Gypsy Lane which is rural in character. The pasture is bordered by a low hedge and several sporadic trees. The flatness, openness and expanse of the field would provide clear views of the proposed 25 metre mast from near and far. There is no built development on Gypsy Lane, and with regard to street furniture, only two speed limit signs and a give-way sign near the junction of Gypsy Lane/ Watton Road. Within this open, rural context, the proposed mast would appear as a dominant, incongruous, and isolated structure.
7. To the east of Gypsy Lane is a large High-Speed Rail 2 (HS2) compound, and beyond that, the M42 and M6 motorway. The compound is bounded by a hedgerow and sparsely dispersed trees. There are temporary cement holders and several cranes within the compound. Other than these temporary vertical structures, the proposed mast would be exposed to view against the openness of the backdrop when viewed from surrounding roads.
8. The appellant contends that, once completed, the Water Orton Viaducts - part of the HS2 project - will visually dominate the area to an extent that would lessen the impact of the proposed mast. There is no doubt that the viaducts will permanently change the skyline of the surrounding area where it will be routed. However, the curve of the viaducts sweeps away from the appeal site to the east of the M42/ M6 so that they would be a distant feature in the horizon when viewed from Gypsy Lane, Coleshill Road and when leaving Water Orton on Watton Lane. Furthermore, the viaducts would be 20 metres high at their highest point compared to the proposed mast at 25 metres. Consequently, despite the future presence of the viaducts, the proposed mast would nevertheless appear prominent and visually intrusive in the local street scene.
9. The appellant has included a landscaping scheme to screen the low-level apparatus within the close-boarded fence compound. The mast would also be colour treated grey to blend in with the sky. However, these measures would not mitigate for the considerable height and isolated siting of the proposed mast which would appear in stark contrast to the character and appearance of the surrounding area.
10. The mast would be clearly visible from at least some of the houses in Coleshill Road, Watton Lane and Maud Road. It would also be visible from points near and far along Gypsy Lane and only partially screened by the few trees along this street due to its considerable height above them.
11. Consequently, the proposed installation would appear overly prominent and visually intrusive and would cause harm to the character and appearance of the area due to its height and siting. Insofar as they are a material consideration, the proposal would conflict with Policies LP14 and LP30 of the NWLP which require development to respect the character and appearance of its setting and its landscape character.

Alternative Sites

12. The Framework recognises that high quality and reliable communications infrastructure is essential for economic growth and social well-being, and supports the expansion of electronic communications networks, including 5G. The

appellant has made reference to a number of documents that set out the importance of high-speed digital communications infrastructure. The proposed mast would maintain and improve network services following a Notice to Quit served on the appellant to facilitate works being carried out in the area for HS2. Hence, I have no reason to question the need for a new site for this proposal.

13. The appellant's appeal statement indicates that the operator has deemed it necessary to split what was previously a single 'cell area' into two individual cell areas, one to the north and one to the south to provide wider coverage than the original cell. The appeal proposal would therefore provide coverage for a new southern cell area, providing superfast 5G services to network users to the east of the Water Orton area, including the M42, the M42/M6 link road, the West Midlands Railway lines and the future HS2 rail line. I am satisfied that the evidence demonstrates the need for the proposed development to be located somewhere in the new southern cell area.
14. The Framework requires electronic communications masts and sites for such installations to be kept to the minimum necessary and for equipment to be sympathetically designed and camouflaged where appropriate. The proposed development, through its siting and appearance, would cause harm to the character and appearance of the area for the reasons given. Alternative sites that might be available are therefore an important consideration. For a new mast, the Framework requires evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
15. An exercise to assess alternative sites has been undertaken by the appellant, with a more comprehensive account of the sites assessed presented as part of the appeal process. The appellant's sequential approach to site selection identified that no mast sharing or existing building structures were suitable available, and deliverable and therefore, a new ground-based mast is required.
16. Five alternative sites were explored within the southern cell target area – DS8, DS9, DS14, DS21 and DS23. DS8 and DS21 were discounted due to the need for two street furniture sites which would have a greater cumulative visual impact on the area and be closer proximity to residential properties. DS23 explored alternative options on the pasture to the west of Gypsy Lane but this was considered no less harmful to the character and appearance of the area than the proposal. DS14 comprises land that will be a playing field for the Old Saltleians Rugby Club but is currently being used as a HS2 compound. Given that the completion of HS2 in the area is some time away, this is not a reasonable alternative.
17. The appellant also considered the Old Saltleians Rugby Club site on Coleshill Road, referenced as DS9, and discounted a rooftop solution due to the low height and pitched roof of the club building. A ground-based was also considered and discounted due to its impact on either the useable recreational space or car park. The Council dispute the conclusions of the assessment of DS9, and have suggested four locations at the rugby club site where a mast could be sited. They have also suggested a streetwork option along Gilson Road, which according to the appellant, would require two street furniture sites and have a greater cumulative impact on the appearance of the area.
18. During my site visit I observed that one of the four locations on the rugby club site suggested by the Council is occupied by a children's play area and therefore not viable. The other is in close to the club building and training area so would be

no less harmful to visual amenity than the proposal. The third option is close to a copse and pond so accessing and servicing of the installation would be difficult. However, the option on the grassed area on the periphery of the rugby club's large car park is a reasonable alternative that warrants more exploration than has been undertaken. Its siting would be less open to views from residential areas and surrounding streets than the appeal site. The appellant suggests that this option would pose ecological risks to the nearby wetland area and impact the rugby club's Biodiversity Net Gain. They also suggest it could not be delivered in the short-term as it is on private land. However, no substantive evidence has been advanced to support these assertions or demonstrate that this option has been comprehensively explored. Accordingly, I am not convinced that this is not a reasonable option.

19. While I acknowledge that a significant amount of land in the target area forms part of the development land associated with HS2 thereby constraining the alternatives available, I find the analysis by the appellant to not be sufficiently comprehensive to eliminate all other reasonable options.
20. The appellant contends that the proposal adheres to the Code of Practice for Wireless Network Development in England (March 2022) in relation to site selection. This sets out a range of principles for erecting new ground-based masts. Based on the evidence before me, it has not been clearly demonstrated that a more suitable site is not reasonably available.
21. Consequently, I conclude that the siting and appearance of the proposed installation would harm the character and appearance of the area. I am not convinced that less harmful alternatives have been properly explored and I consider that the need for the installation to be sited as proposed does not outweigh the harm identified.

Other Matters

22. Reference has been made to various social and economic benefits, but these have not been taken into account in considering the matters of siting and appearance as the benefits of telecommunications are implicit in the grant of permission by the GPDO.
23. The proposal would not give rise to any adverse effects on highway safety. Underground services and trees would not be affected. There would be no unacceptable effects on the historical qualities of the area or the living conditions of nearby residents. These are, however, neutral matters which weigh neither in favour or against the proposal.
24. The appellant has referred to appeal decisions in Romford¹, Hornchurch², Sidlow³ and Greenwich⁴. However, none of the appeals presented are close to the appeal site, so are not directly comparable in terms of siting and appearance. Moreover, in those appeals where harm was identified to the character and appearance of the area, the Inspectors found that there were no reasonable alternative sites.

Conclusion

25. For the reasons given above the appeal should be dismissed.

¹ APP/B5480/W/20/3251086.

² APP/B5480/W/21/3285473.

³ APP/L3625/W/23/3314614.

⁴ APP/E5330/W/23/3321769.

U P Han

INSPECTOR