



Appeal Decision

Site visit made on 6 May 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 July 2025

Appeal Ref: APP/X4725/C/23/3328892

5 Kingsley Avenue, Crofton WF4 1RN

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Stephen Andrew Allanson against an enforcement notice issued by Wakefield Metropolitan District Council.
 - The notice was issued on 10 August 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of a radio mast and antenna system within land situated in the Green Belt on the Land.
 - The requirements of the notice are to: Permanently remove the unauthorised radio mast and antenna from the land.
 - The period for compliance with the requirement is: One month.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

2. The Wakefield District Local Plan was adopted in January 2024 (the WDLP), and a revised National Planning Policy Framework was also published in December 2024, after the issue of the enforcement notice. Both parties have been given the opportunity to comment on the implications of these documents through the appeal. The Council advised it considers policies LP56 and policy SP3 are relevant to the appeal before me. The appellant has been given the opportunity to comment on this through the appeal.
3. Although the appellant has not advanced an appeal under ground (c), the appellant states that 'the local authority has not proven that the mast is inappropriate and in fact the principle that consent for a moveable mast is actually deemed development beyond reasonable grounds. Has [sic] similarly not been proven.' I raised with the appellant whether they would like to add an appeal under ground (c), since, as set out under section 174(4)(a) of the Act, it is for the appellant to specify the grounds on which the appeal is made. However, no response has been received. In the interests of procedural fairness, I shall limit my consideration to the appeal made under ground (a).
4. Appeal reference APP/X4725/W/22/3306828 was dismissed on 21 March 2023 for a portable mast and antenna system for amateur radio use.

Main Issues

5. The main issues of the appeal are:

- Whether the appeal scheme is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (December 2024)(the Framework) and relevant development plan policies;
- The effect of the appeal scheme on the openness of the Green Belt; and
- The effect of the appeal scheme on the character and appearance of the area; and
- The effect of the appeal scheme on the living conditions of neighbouring occupants; and
- If the appeal scheme is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the appeal scheme.

Reasons

Whether inappropriate development

6. Kingsley Avenue is generally characterised by semi-detached dwellings which front onto the highway. The radio mast and antenna system has been erected in the rear garden of No 5 Kingsley Avenue and comprises a mast, made using aluminium and steel components and an antenna which sits horizontally on the mast with a substantial frame. The garden is bound with a timber fence around 1.8m in height and mature bushes and trees. Despite the height of boundary treatments and the presence of mature vegetation, when extended, due to its substantial height, the radio mast and antenna system is visible from neighbouring properties, as well as the public domain.
7. The appeal site is located within the Green Belt. Policy SP3 of the WDLP sets out that in the Green Belt, development will conform to national planning policy relating to the Green Belt. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
8. The Framework advises that development should be regarded as inappropriate in the Green Belt, unless one of a number of exceptions as set out in paragraph 154 applies. While the appellant suggests the Council 'has not proven that the mast is inappropriate', the appellant has not explained which exception they consider it falls within. The appellant advises that he and his wife use the radio mast and antenna system as part of a hobby. The appellant describes the mast as a 'freestanding structure', having removed guy wires which previously held the structure in place.
9. While the use of the radio mast and antenna system may be incidental to the use of the dwellinghouse, the Council does not suggest that a material change of use has occurred, rather the notice alleges operational development. The main characteristics of a building, as a matter of fact and degree, are (a) physical

attachment, (b) permanence and (c) of a size to be constructed on site, as opposed to being brought onto the site. No one test is conclusive.

10. The mast and antenna system rests under its own weight, though to extend it, it needs to be connected to a pump, which limits where it can be placed within the garden. The Council suggests that it takes 3 persons to erect the mast and antenna system, though I note it is stated by the SCAM 12 Field Mast Kit and Ancillary Equipment User's Handbook, Cat No. 7608, the mast requires at least 1 person to erect it. It would also have been necessary to fit the antenna to the top of the mast. Given its substantial size, it is likely to need to be erected at the appeal site.
11. The mast extends up to 12m in height, though I note during my visit it was not possible to extend it fully. While I saw that two people can move the structure relatively easily, its position within the rear garden is unlikely to significantly change due to the need to connect it to a pump, and given the substantial dimensions of the antenna. Indeed, photographs provided through this appeal show that the general location of the structure has not significantly changed. Furthermore, during my visit, marks in the grass where the feet of the mast have previously been placed were in a similar location. As a result, it has the character of permanence and, in my view, is a building for the purposes of the Act.
12. Residential outbuildings may be considered under paragraph 154c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. However, I do not consider the antenna and mast to be a normal domestic adjunct. Furthermore, when extended, its height is significant compared to the height of the host dwelling. As a consequence, the antenna and mast system is not, in my view, an extension and even if it were to be considered as such, it results in a disproportionate addition over and above the size of the original building. It does not, therefore, fall within paragraph 154(c).
13. Paragraph 155 of the Framework states that the development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where certain criteria apply, including that the development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan and there is a demonstrable unmet need for the type of development proposed.
14. The Framework defines grey belt as 'land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b) or (d) in paragraph 143. 'Grey Belt' excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.
15. Previously developed land is defined as land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land. However, it excludes land in built-up areas such as residential gardens. There is no definition of a built-up area within the Framework. The Oxford English Dictionary defines a built-up area as an area of land covered in buildings and roads.

16. Although the appeal site is located on the edge of Crofton, I consider the appeal site is within a built-up area and is therefore excluded from the definition of previously developed land. Nevertheless, the appeal site is surrounded by development and in my view, does not contribute strongly to any of the purposes (a), (b) or (d) in paragraph 143 and so I find it is grey belt.
17. The Planning Practice Guidance (PPG) advises that, in reaching a judgement with regards to criterion (a) of paragraph 155, authorities should consider whether, or the extent to which, the release or development of Green Belt Land would affect the ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way.
18. While there is limited evidence before me to enable me to make an assessment in this regard, given that the antenna and mast is located in the rear of a residential garden, I consider it unlikely its development would affect the ability of all the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way.
19. Nevertheless, while the appellant and their wife may be keen radio enthusiasts, the appellant has not shown there is a demonstrable unmet need for the type of development proposed. As such, although I have found the land to be grey belt, it fails to meet criterion (b) of paragraph 155 of the Framework and is therefore inappropriate development in the Green Belt.

Openness

20. Although the antenna and mast system is located in the rear garden of the property, it is visible from both the public domain and from nearby properties, and is particularly visible when extended. In my view, given its location to the rear of the host dwelling, the appeal scheme has resulted in a limited adverse impact on the openness of the Green Belt, contrary to the expectations of the Framework.

Character and appearance

21. The appeal site comprises a semi-detached dwelling, with a modest rear garden and is set within a generally residential area, bound by open farmland. Policy LP56 of the WDLP seeks design which respects and where appropriate, enhances the character and overall quality of the locality in terms of scale and height, amongst other things.
22. The antenna and mast system is a substantial structure, which can be extended in height. When it is extended, it extends well above boundary treatments and is visible from both the public domain and various neighbouring properties and appears an incongruous feature. The appellant suggests it could be likened to a large rotary drier. However, driers sited in rear gardens are likely to be far lower in height and not such prominent features. Other structures, such as outbuildings and garages are similarly likely to be far lower in height.
23. The appellant suggests that the mast is predominantly retracted during daylight hours and that their use of the mast in a fully extended mode is generally late evenings and into the small hours when they can converse with fellow enthusiasts in different time zones. However, it is not clear what the appellant means by 'predominantly' or 'generally'. An interested party suggests it is only retracted when the appellant goes on holiday. I have been provided with various

photographs, which appear to have been taken during the daytime and which show the antenna and mast in an extended position.

24. I do not consider it would be appropriate to impose a condition to require that the structure is only extended during the hours of darkness, since it would lack precision. I also have concerns about the reasonableness of such a condition, as well as its enforceability. Moreover, due to artificial lighting, even after the sun has set, I consider it would still be visible from neighbouring properties.
25. The appellant has drawn my attention to pylons (although from my visit, I presume the appellant means electricity poles) crossing adjacent fields, which, it is asserted, are far more visible to the neighbouring properties. However, these are viewed at distance from the neighbouring properties and so do not have the same effect on the character and appearance of the area. Furthermore, the poles presumably facilitate the supply of electricity to the local area and therefore have a public benefit which is simply not comparable to the appeal scheme before me.
26. I note the Inspector in respect of APP/X4725/W/22/3306828 found that the effect on the character and appearance of the area would be limited. However, this was on the basis that it was, most of the time, in a retracted form. The evidence before me, however, suggests that this is not the case and, given this, I respectfully take a different view to the Inspector in this regard and find that the structure is an incongruous feature which harms the character and appearance of the area, contrary to policy LP56 of the WDLP, the requirements of which are set out above.

Living conditions

27. Within its reasons for issuing the enforcement notice, the Council raise concern that it appears incongruous with its surroundings when viewed from neighbouring sites. In response to the adoption of the WDLP, the Council drew my attention to policy LP56, criterion n, which seeks to ensure development has no significant detrimental impact on the amenity of neighbouring users or residents and existing or prospective users. I also note in its delegated report dated 6 July 2023, the Council refers to the mast having an overbearing impact on the next door neighbour's property and the garden area of Number 511 Doncaster Road. It is clear, therefore, that its concerns relate to the effect of the appeal scheme on the living conditions of neighbouring occupants. The appellant has been given the opportunity to comment on these matters through this appeal.
28. As set out above, I agree that neighbouring occupants will be able to see the structure from their properties and rear gardens. However, the mast and antenna system is set away from the boundaries with the neighbouring properties. Given its lightweight structure, distance from properties and intervening boundary treatments, even when fully erected, I do not consider it to be significantly harmful to the living conditions of neighbouring occupants and so there is no conflict with criterion n of policy LP56 of the WDLP in this regard. This is a neutral factor in my consideration of the appeal.

Other considerations

29. I note that the appellant and his wife are amateur radio enthusiasts and that the mast is retained for hobby purposes. However, this is a private benefit to which I afford very limited weight.

30. The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), Schedule 2, Part 1, permits the provision within the curtilage of the dwellinghouse of (a) any building...required for a purpose incidental to the enjoyment of the dwellinghouse, subject to certain conditions and limitations. However, the mast and antenna greatly exceed the height limitations set out under this part¹.
31. The Council has set out its consideration of Class A, Part 16 of the GPDO, which permits development by or on behalf of an electronic communications code operator. However, by the appellant's own admission, the mast and antenna system has been erected to enable them to pursue their hobby, not for the purpose of an operator's electronic communications network. Class B permits the installation, alteration or replacement on any building or other structure of a height of 15 metres or more of a microwave antenna and any structure intended for the support of a microwave antenna, however, the development is mounted on the ground. Furthermore, development is not permitted by Class B if the building is a dwellinghouse or the building or structure is within the curtilage of a dwellinghouse. A similar limitation applies to Class C. As such, I consider the mast and antenna system is not permitted by the GPDO.

Ground (a) Planning balance and conclusion

32. The Framework sets out the general presumption against inappropriate development within the Green Belt. When considering any planning application, it advises that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. It states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
33. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
34. I have found that the appeal scheme is inappropriate development and afford the harms by reason of inappropriateness in the Green Belt substantial weight. I have also found harm to the character and appearance of the area. The other considerations in this case do not clearly outweigh the totality of the harm identified and so very special circumstances do not exist. Since the development does not, therefore, conform to national planning policy relating to the Green Belt it conflicts with policy SP3 of the WDLF in this regard.
35. Having regard to the legitimate and well-established planning policy aims to protect the Green Belt and the character and appearance of the area, in my view, the benefits of the appeal scheme are outweighed by the harms I have identified.

Conclusion

36. For the reasons set out above, I find that the appeal scheme is not in accordance with the development plan as a whole and material considerations do not indicate a decision should be other than in accordance with the development plan. I conclude that the appeal should not succeed. I shall uphold the enforcement

¹ 4 metres in the case of a building with a dual-pitched roof; 2.5 metres in the case of a building within 2 metres of the boundary of the curtilage of the dwellinghouse; or 3 metres in any other case.

notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

M Savage

INSPECTOR