

Delegated Report

Planning Ref: 24/00689/TGDO

Applicant: Cornerstone

Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Roundabout At The Junction of Sketchley Road and Rugby Road Burbage Leicestershire

Proposal: Installation of a 20m monopole with 6 antennas, 2 dishes, 2 cabinet and associated ancillary works.

1. Recommendations

1.1. Prior approval given.

2. Planning application description

- 2.1. This application relates to the installation of a 20 metre high monopole with 6 antennas, 2 dishes, 2 cabinets and ancillary works. The application is submitted under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2022. As such the application is for a determination as to whether prior approval of the Local Planning Authority is required for the siting and appearance of the proposed mast and associated equipment.

3. Description of the site and surrounding area

- 3.1. The application site relates to a highway green land close to the roundabout at the junction of Sketchley Road and Rugby Road Burbage. The surrounding area is predominantly residential to the north, west and south and a school to the east of the site. The site is not residential and not close to any listed building.
- 3.2. The immediate surrounding area has a number of highway street signs, lamppost, railings, drain pit and grass area.

4. Relevant planning history

The site has no related planning history.

5. Publicity and Consultation

- 5.1. As required by Paragraph A3. 6 (d) of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 a site notice was posted within the vicinity of the site.
- 5.2. One comment was received from Sketchley Hill Primary School as a result of the publications. These includes narrow footpath, congestion on road during start and end of school, impact on children and noise.
- 5.3. LCC Highways: The Local Highway Authority Advice is that, in its view the impact of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (December 2023).
- 5.4. HBBC Environmental Services has no objection.
- 5.5. Burbage Parish Council has no objections to the application.

6. Policy

- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- Policy DM10, DM16 and DM17 of the Site Allocations and Development Management Policies DPD (2016).

Policy DM10 requires that development does not have a significant adverse effect on the amenity of nearby residents and that a development complements or enhances the character of the surrounding area.

Policy DM16 states that the provision of essential infrastructure for telecommunications will be supported where it has been demonstrated that:

- a) there are no opportunities for sharing a site, mast or facility with existing telecommunications infrastructure already in the area; and
- b) they are appropriately situated in the least visually obtrusive location available and appropriately designed to take account of their surroundings; and
- c) technologies to miniaturise and camouflage have been sufficiently explored; and
- d) the proposal is in conformity with the latest national guidelines on radiation protection.

Policy DM17 states that development will be supported where it is demonstrated that there is not a significant adverse impact on highway safety.

Other relevant guidance

- National Planning Policy Framework (2023)
- 5G Technologies – Radio waves and Health (GOV.UK)
- Code for Best Practice on Mobile Network Development in England 2016

7. Appraisal

7.1 This application considers if prior approval is required for the telecommunications equipment proposed under Schedule 2, Part 16, Class A of the GPDO (2015) (as amended).

7.2 Paragraph A.3 (7) of Part 16 states that ‘...the local planning authority must take into account any representations made to them as a result of consultations and notices.’ Therefore, throughout this section references will be made to various comments received as a result of the Publicity and Consultation.

7.3 Development is permitted under Class A as follows:

A. Development by or on behalf of an electronic communications code operator for the purpose of the operator’s electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of—

- a) the installation, alteration or replacement of any electronic communications apparatus
- b) the use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus,

including the provision of moveable structures on the land for the purposes of that use, or

c) development ancillary to radio equipment housing

7.4 **The application proposes the installation of a 20 metre monopole mast with associated cabinets and ancillary development. Therefore, the application is considered against Paragraph A.1 (1): ground based apparatus, Paragraph A.1 (3): apparatus on mast, Paragraph A.1 (7): ground or base area and Paragraph A.1 (9): radio equipment housing.**

7.5 Development not permitted: ground-based apparatus.

A.1 - (1) Development consisting of the installation, alteration or replacement of electronic communication apparatus (other than on a building) is not permitted by Class A(a) if—

- (a) in the case of the installation of electronic communication apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;
- (b) in the case of the alteration or replacement of electronic communication apparatus (other than on a mast), that is already installed, the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;
- (c) in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of-
 - (i) 30 metres above ground floor level on unprotected land; or
 - (ii) 25 metres above ground level on article 2(3) land or land which is on a highway;
- (d) in the case of alteration or replacement of a mast, the height of the mast, excluding any antenna, would when altered or replaces exceed the greater of the height of the existing mast or a height of-
 - (i) 30 metres above ground level on unprotected land; or
 - (ii) 25 metres above ground level on article 2(3) land or which is on a highway; or
- (e) in the case of the alteration or replacement of a mast-
 - (i) the mast is on any land which is, or is within, a site of special scientific interest; and
 - (ii) the mast would, when altered or replaced, exceed the original width of the mast by more than one third.

Excluding the proposed mast, the proposed installation of apparatus does not exceed a height of 15 metres above ground level. The proposed mast is on a highway land and does not exceed 25 metres above ground level.

7.6 Development not permitted: apparatus on mast

A.1 (3) Development consisting of the installation, alteration or replacement of electronic communication apparatus (other than an antenna) on a mast is not permitted by Class (A) if the height of the mast (including the apparatus installed, altered or replaced) would

exceed any relevant height limit specified in paragraph A.1(1)(c) or (d) or A.1 (2)(a) or (b). For the purposes of applying the limit specified in paragraph A.1 (2) (a), the word 'taken by itself' in that paragraph are omitted'.

The proposed installation of electronic communication apparatus does not include any other apparatus (other than an antenna) on the mast and the total height of the mast does not exceed the relevant height limit specified in Paragraph A.1(1)(c).

7.7 Development not permitted: ground or base area.

A.1 - (7) Development is not permitted by Class A(a) if, in the case of the installation, alteration or replacement of any apparatus other than—

- (a) a mast;
- (b) an antenna;
- (c) any apparatus which does not project above the level of the surface of the ground; or
- (d) radio equipment housing,

is not permitted by Class A(a) if the ground or base area of the structure would exceed 1.5 square metres.

The proposal does not include the installation, alteration and replacement of any electronic communication apparatus other than the ones listed above.

7.8 Development not permitted: radio equipment housing.

A.1 – (9) Development consisting of the installation, alteration or replacement of radio equipment housing is not permitted by Class A(a) if-

- (a) the development is not ancillary to the use of any other electronic communications apparatus;
- (b) the cumulative volume of such development would exceed 90 cubic metres or, if located on the roof of a building, the cumulative volume of such development would exceed 30 cubic metres, or
- (c) on any land which is, or is within, a site of special scientific interest, any single development would exceed 2.5 cubic metres, unless the development is carried out in an emergency.

(9A) Sub-paragraph (9)(b) and (c) does not apply where the development is carried out within a permitted compound (and accordingly the development described in that sub-paragraph is permitted by Class A(a)).

The development is carried out on permitted ground, permitted by Class A(a) and complies with A.1 (9)(a) and (b) and (c) are not relevant in this instance as the site is not on article 2(3) land.

Conditions

7.9 A.2:(1) Class A(a) and A(c) development is permitted subject to the condition that-

(a) the siting and appearance of any-

- (i) mast;
- (ii) electronic communication apparatus installed, altered or replaced on a mast;
- (iii) antenna or supporting apparatus;

- (iv) radio equipment housing; or
- (v) development ancillary to radio equipment housing,

which has been constructed, installed, altered or replaced in a manner which does not require prior approval under paragraph A.2(3) are such that the visual impact of the development on the surrounding area is minimised, so far as practicable;

(b) the siting of any development is such that it-

- (i) does not prevent pedestrians from passing along a footway;
- (ii) does not prevent access to premises adjoining a footway; and
- (iii) is determined having regards to-

(aa) the needs of disabled people; and

(bb) the guidance document 'Inclusive Mobility' issued by the Development for Transport in December 2021.

Class A(b) development is permitted subject to the condition that any apparatus or structure provided in accordance with that permission must, at the expiry of the relevant period, be removed from the land and the land restored to its condition before the development took place.

A.2 (3) Subject to sub-paragraph (5), Class A development –

(a) on highway where that development consists of –

(i) the alteration or replacement of a mast, other than on a building, which, when completed

(aa) is taller than the mast which existed prior to alteration or replacement; and

(bb) exceeds a height of 20 metres above ground level excluding any antenna;

is permitted subject, except in case of emergency (in which case only paragraph A.3 (prior approval).

Siting and Appearance of the Development

- 8.0 Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The proposed applications relate to the siting and appearance (design) of the mast.
- 8.1 Policy DM10 requires that development does not have a significant adverse effect on the amenity of nearby residents and that a development complements or enhances the character of the surrounding area.
- 8.2 Policy DM16 states that the provision of essential infrastructure for telecommunications will be supported where it has been demonstrated that:
 - a) there are no opportunities for sharing a site, mast or facility with existing telecommunications infrastructure already in the area; and
 - b) they are appropriately situated in the least visually obtrusive location available and appropriately designed to take account of their surroundings; and
 - c) technologies to miniaturise and camouflage have been sufficiently explored; and
 - d) the proposal is in conformity with the latest national guidelines on radiation protection.

- 8.3 The Government is committed to extending mobile network coverage across the UK and supporting 5G deployment. Section 10 of the NPPF (2023) outlines the planning criteria for communications infrastructure.
- 8.4 Paragraph 119 of the NPPF states that the number of radio and electronic communication masts, and the site for the installation, should be kept to a minimum consistent with the need of the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communication capabilities (including wireless) should be encouraged. Where new sites are required equipment (such as 5G networks, or for connected transport and smart city application), equipment should be sympathetically designed and camouflaged where appropriate.
- 8.5 The Code for Best Practice on Mobile Network Development in England 2016 provides best practice guidance for applicants on a range of matters relating to network development. In respect of potential site identification, the best practice approach for applicants includes checking the Local Authority mast register (if available), examining existing databases, identifying sites in the search area and options (site availability, viability, suitability) and an initial suitability rating of the options available.
- 8.6 The application is accompanied with a site specific supplementary information document (SSSI) which states that a sequential approach to site finding was adopted and industry database checked for suitable sites. The site selection process identified 9 alternative sites explored however they were discounted for reasons such proximity to residential dwellings and trees, issues relating to ICNIRP, demolition of existing parking space, lower coverage capacity, and restricted access to some of the sites. For rooftop site, they were discounted for reasons such as roof form and lower height of the buildings. Only D11-rooftop was identified to upgrade/site share existing apparatus however not ideal to accommodate the proposed equipment.
- 8.7 Paragraph 122 of the NPPF requires that local planning authorities should not prevent competition between different operators and not to question the need for an electronic communication system. The justification for the need of the proposed telecommunication apparatus is to increase network coverage and capacity and ensure local network users have available to them a service that meets modern user requirement. No objection was received in regard to the need of the mast.
- 8.8 No objections were received in regard to the proximity of the proposed mast to residential dwellings. Sketchley Hill School commented on the location of the proposed mast. Paragraph 120 of the NPPF requires local planning authorities not to impose a ban on new electronic communication development in certain areas, impose blanket Article 4 directions over a wider area or a wide range of electronic communication development or insist on minimum distance between new electronic communications development and existing development.
- 8.9 Paragraph 122 requires local planning authorities to determine application on planning grounds only. Therefore, non-material and non-planning related comments are not considered.
- 8.10 The proposed electronic communication apparatus is sited on a highway land and is on a green verge. It is near the roundabout at the junction of Sketchley Road and Rugby Road Burbage, where the Local Highway Authority has confirmed that the proposal does not affect the visibility splay for vehicles egressing Sketchley Road onto Rugby Road. The site has several lampposts and road signs. The tallest lamppost is approximately 10.2 metres. The surrounding area is predominantly residential to the north, west and south and a school to the east of the site. The surrounding trees provides some form of screening and the view of the proposed

mast from the east of the site. The proposed mast goes significantly higher than all vertical infrastructure on the street. It introduces a new form of development in the street scene, however, it will appear less visually sensitive as a result of appropriate external material which matches with existing vertical infrastructure and cabinets. RAL 7035 (Grey) is proposed for the tower/mast and RAL 6009 (Fir Green) for the cabinets.

- 8.11 No objections have been received in regard to the mast being out of character, large and intrusive, higher than neighbouring houses, trees, and light poles. It is considered that the mast and equipment do not detrimentally affect the character or appearance of the area.
- 8.12 It is acknowledged that the proposed mast introduces a new form of development within the street scene. Masts by nature do not complement or enhance the character of any area. They are a product of our reliance on mobile phones, and it is considered that sufficient measures such as the minimisation of the height, the siting and the colouring of the mast and equipment have been taken such that the degree of conflict with Policy DM10 has been minimised as far as possible.
- 8.13 It is considered that the proposed mast has appropriate siting and appearance and in compliance with the relevant legislation Class A Part 16 Schedule 2 of the Town and Country Planning General Permitted Development (England) Order 2015, as amended.
- 8.14 On the basis, the proposed siting and appearance is considered acceptable subject to condition outlined below.

Consultation and Decision Making

- 8.15 Section A3 within Part 16 refers to the prior approval process and the requirements for both the applicant and the LPA in terms of the application submission, advertisement and consultation (paragraphs A3. (1), (2), (3), (4) and (5)).
- 8.16 The LPA pasted a site notice within the vicinity, ward members, LCC Highway Authority and Burbage Parish Council were consulted.
- 8.17 The applicant provided evidence of site provider letter, developer notice and consultation letters.

Health

- 8.18 Objections were received in regard to the impact on children's health.
- 8.19 Central Government determines health policy in relation to any potential health issues of radio waves. Paragraph 122 of the NPPF states that local planning authorities should not seek to set health safeguards different from the International Commission guidelines for public exposure.
- 8.20 The applicant has provided a Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines dated 05/07/2024 to support the proposal and therefore, in line with the NPPF, the LPA is not required to make any further judgement on health and safety issues.
- 8.21 The 'ICNIRP Declaration' *certifies that the proposed site shall be operated to be in full compliance with the requirements of the radio frequency (RF) public exposure limit of the International Commission on Non-Ionizing Radiation Protection (ICNRP) and UK Legislation*.

Noise

- 8.22 Objections were received regarding noise from the equipment.

- 8.23 Noise from the proposed development is considered to be minor. HBBC Environmental Services has no objection to the proposal. If the noise was considered to be above an acceptable level, then environmental health officers have powers to address this.

9 Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10 Conclusion

- 10.1 The proposed development meets the criteria as set out under Class A of Part 16, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in terms of siting and appearance.
- 10.2 Based on the above assessment, and taking into account the nature of the application, prior approval is granted subject to the condition outlined below. Having regard to the proposed siting and appearance of the mast, it is considered that the development does not significantly harm the character and appearance of the area or the amenity of any neighbours.

Recommendation

10.3 Prior approval given.

Reason

1. The proposed mast does not significantly harm the character and appearance of the site or surrounding area or the amenity of neighbouring occupiers and is considered to be in compliance with Policies DM10, DM16 and DM17 of the Site Allocations and Development Management DPD (2016), National Planning Policy Framework and The Code of Best Practice on Mobile Network Development in England (2016).

Conditions

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawings Number: CS_30748700_GA_Rev_A (submitted 15.07.2024) and external materials shall be in accordance with detail provided within the application.

Reason: To ensure equipment is sufficiently miniaturise, sympathetically designed and camouflaged in accordance with Paragraph 115 of the NPPF, Policies DM10 and 16 of the SADMP DPD 2016

Notes to applicant

1. Information that the developer provided to the local planning authority:
 - Industry Site Specific Supplementary Information
 - Planning Developers Notice
 - Cover letter
 - Site Provider Letter
 - Plans Drawing number CS_30748700_GA_Rev_A.
 - Application form
 - Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines

Informative

1. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licenses/permits/agreements are in places. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.