

Delegated Report

Planning Ref: 22/00467/TGDO

Applicant: Signal Infrastructure UK Limited

Ward: Ratby Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Site: Sacheverell Way Groby Leicestershire

Proposal: 15m Phase 8 Monopole and associated ancillary works

1. Recommendations

1.1. Prior approval given.

2. Planning application description

- 2.1. This application relates to the installation of 15 metre high phase 8 monopole 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 the 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 is an area of highway verge on the junction of Sacheverell Way and Laundon Way, Groby. The road is a classified C road that stretches from Leicester Road the M1 in Groby.
- 3.2. The immediate surrounding has a footpath, 8 metre high street lights, approximately 12 metres high trees, residential development to the north and open green spaces to the south. The trees are not covered by Tree Preservation Order. The closest dwelling is approximately 36 metres from the mast and the closest garden is approximately 21 metres away. The site is not within a conservation area. The application follows a refusal a previous application at a different site in Groby (22/00956/TGDO).

4. Relevant planning history

The current site has no 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. 71 comments were received as a result of the publications, 1 neutral comment, 5 comments in favour of the application and 65 objections. Cllr O'Shea has formally objected to the application

Objections have been made on the following grounds:

- Visual and obtrusive
- Out of scale and dominate the local area.
- Site close to Brookvale Groby Learning Campus and Lady Jane Grey Primary School
- Existing mast on Ratby Road by same operator

- No evidence of robust mast search for alternative site or mast sharing or upgrade to existing ones
- Health effect associated with prolonged exposure to radio frequency electromagnetic fields
- Will increase fear of harm and anxiety
- Proximity to residential properties and affect the value of properties within the site
- Site not suitable as it is regularly used for dog walkers, school children and bike riders
- Impact on the green area and on wildlife
- Not in keeping to the street scene
- No need for additional telecommunication mast
- Potential invasion of privacy
- Lack of regulation and safety standards
- Obstruct clear view of drivers approaching the junction
- Proposed development does not follow the Code of Practice for Wireless Network Development and Policy DM10 of the SADMDPD
- Ineffective to deliver the required coverage
- Explore alternative sites
- Impact on trees along the mineral railway line which benefits from TPO
- Creates clutter
- The site is within the Green Wedge
- Continuous noise from cabinets

5.3 LCC Highways were consulted and have provided the following comments:

The proposed monopole and associated cabinets will be installed approximately six metres from the carriageway and at least one metre from the public footpath. The LHA are satisfied that the proposed installation would not obstruct existing visibility splays and the cabinet doors can be operated without causing an unacceptable obstruction to users of the public footpath.

The LHA advise that the applicant will be liable for the costs to undertake any required surveys and potentially works to relocate any statutory undertakers apparatus located within the highway verge.

The LHA request that the operational maintenance vehicles do not park on the grass verge or close to the junction of Sacheverell Way and Laundon Way as this may obstruct visibility splays for vehicles joining Sacheverell Way from Laundon Way.

5.4 Groby Parish Council was consulted and have provided the following comments;

The Parish Council agree in principle to the proposed location of the mast however has concern regarding the lack of accurate information on 5G coverage the mast will provide. The committee wishes for the proposed telecommunication installation to be camouflaged/disguised to lessen the visual impact on the historical area of the mineral line and Roman Way in Groby.

6. Policy

- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- Policy 9 of the Core Strategy (2009)
- Policy DM10, DM16 and DM17 of the Site Allocations and Development Management Policies DPD (2016).

6.1 Policy 9 of the Core Strategy states that within the Rothley Brook Meadow Green Wedge only certain land uses will be acceptable. Masts and telecommunications equipment does not fall within the acceptable uses. 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 (2019)
- 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 objections received outlined within the Publicity and Consultation section of this report.

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 15 metre phase 8 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 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 apparatus already installed (other than on a mast), 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 would not exceed a height of 15 metres above ground level. The proposed mast would be located on highway land but would not exceed 30 metres above ground level on unprotected land. The proposal does not include any replacement or alteration work.

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), the word 'taken by itself' in that paragraph are omitted'.

The proposed installation of electronic communication apparatus does not include any other apparatus 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.

There are no structures forming part of the development that would exceed 1.5 square metres in ground or base area.

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 constructed, installed, altered or replaces 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.

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. Policy DM10, DM16 and DM17 of the SADMP and Policy 9 of the Core Strategy are the development plan policies relevant to this application insofar as it relates to matters associated with the prior approval process i.e. siting and appearance (design).
- 8.1 The Government is committed to extending mobile network coverage across the UK and supporting 5G deployment. Section 10 of the NPPF (2021) outlines the planning criteria for communications infrastructure.
- 8.2 Paragraph 115 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.
- 8.3 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.
- 8.4 The site specific supplementary information document (SSSI) states that a sequential approach through mast and site sharing, existing buildings structures and ground based installation were conducted and no suitable alternatives have been identified.

- 8.5 The operator stated that after a sequential site selection process, there is no scope to upgrade an existing mast nor site share. Objections have been received relating to the site being unsuitable, and no evidence of mast sharing or upgrade to existing ones and that existing masts along Ratby Road could be used to mast share.
- 8.6 Cell search information provided by the operator gives eight potential sites explored however they were discounted for reasons such as residential amenity issues, visual intrusion, interference of existing cells, level of targeted coverage, limited screening and therefore the proposed site is considered by the operator to be the only viable location to minimise amenity issues, provide the optimum radio coverage and not interfere with adjoining Signal infrastructure. Figure 4 in the SSSI shows coverage of the proposed mast.
- 8.7 Paragraph 118 of the NPPF requires that local planning authorities not to prevent competition between different operators and not to question the need for an electronic communication system. While there were objections pointing out various operators in Groby and questioning the need for the mast, the site specific supplementary document explains that 5G cell search areas are extremely limited, that there is an acute need for new mast in Groby and that there is no scope to pull the mast outside of this area and give the cell 5G coverage.
- 8.8 Objections were received in regards to the proximity of the proposed mast to residential dwelling, public highway, Brookvale Groby Learning Campus and Lady Jane Grey Primary School. Paragraph 116 of the NPPF requires local planning authorities not to imposed 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. Paragraph 118 requires that local planning authorities to determine application on planning grounds only. The site lies on the edge of the Green Wedge and given the presence of street lighting in the area is it not considered that the mast and equipment would detrimentally affect the function of the Green Wedge.
- 8.9 Objections were received in regards to the mast being out of character, large and intrusive, higher than neighbouring houses, trees, and light poles, negative impact on wildlife, and impact the historic and mineral rail line of Groby.
- 8.10 The proposed mast is located on an open public highway verge approximately 6 metres from the carriageway and a metre away from the footpath. It is well set back and does not obstruct existing visibility splay and movement of people. It is 21 metres of the closest garden and 36 metres of the closest dwelling and in each case the mast is either screened by other trees or seen against the background of the existing trees closest to Sacheverell Way. This reduces the level of impact on residential amenity such that it is considered to meet the requirement of Policy DM10 that it does not have a significant adverse effect on residential amenity.
- 8.11 The site has trees of approximately 12 metres high against the backdrop the proposed mast and a number of existing street lights. The mast is 15 metres high with 3 closely related cabinets. The surrounding trees and painting of the mast and cabinets dark green (RAL 6035) (proposed by the LPA) are considered to minimise the visual impact of the mast. It is on a junction between Sacheverell Way and Laundon Way, not in a conservation area or have any sensitive receptors or any major planning constraint related to the site. The separation distance between the proposed mast and existing vertical infrastructure is considered appropriate as they do not cause overdevelopment at the immediate street scene. By their nature though masts 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.

- 8.12 It is acknowledged that the proposed mast introduces a new form of development within the street scene, however it is considered to have 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.
- 8.13 On the basis, the proposed siting and appearance is considered acceptable subject to condition outlined below.

Consultation and Decision Making

- 8.14 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)).
- 8.15 The LPA pasted a site notice within the vicinity, the Parish Council, ward members and LCC as Highway Authority were consulted.
- 8.16 The applicant provided evidence of site provider letter, developer notice and pre consultation to the LPA.
- 8.17 Objections were received in regard to consultation by the LPA and the applicant and all comments were considered in the application.

Health

- 8.18 Many objections were received in regard to the impact on health, exposure to radiation, toxic air, underdeveloped brain cells, and impact on people's mental wellbeing.
- 8.19 Central Government determines health policy in relation to any potential health issues of radio waves. Paragraph 118 of the NPPF states that local planning authorities should not seek to set health safeguards different from the International Commission guidelines for public exposure.
- 8.19 The applicant has provided a Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines dated 02/05/2023 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.
- 8.20 The certificate states that the proposed development *'is designed to be in full compliance with the requirement of the radio frequency public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection as expressed in EU Council Recommendation 1999/519/EC of 12 July 1999 'on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)'.*

Environmental Factors

- 8.22 Objections have been received in regard to the impact upon on wildlife species. This site is not a protected wildlife site and other legislation deals with protected species. It is considered that there would not be any adverse impact upon protected species.

Noise

- 8.23 Objections have been received regarding unacceptable noise from monopole and the noise will be disturb the neighbouring properties causing hearing problems.
- 8.24 The noise from the proposed development would be minor. It is not considered that any neighbouring resident would be disturbed by noise given the proximity of Sacheverell Way and the distance to dwellings. If the noise was considered to be

above an acceptable level, then environmental health officers have powers to address this.

Other matters

- 8.25 Objections have been received regarding the reduction of the value of properties and mast for commercial benefit not the benefit of the community.
- 8.26 These objections are not material planning considerations that can be taken into account under the legislation within the Town and Country Planning Development Order 2015.
- 8.27 The Local Highway has confirmed that it has no objections.
- 8.28 The proposals are not considered to have any detrimental effect on protected trees.

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 would 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 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), Policy 9 of the Core Strategy (2009), National Planning Policy Framework and The Code of Best Practice on Mobile Network Development in England (2016).

Condition

The proposed mast and cabinets shall be painted dark green (RAL 6035) prior to their installation to minimise their visual impact.

Reason: To ensure that the equipment is sufficiently sympathetically designed 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:
 - Site Specific Supplementary Information
 - Developers Notice
 - Site provider letter
 - Drawings No: HAB16954_M005 Issue: E
 - Application Form
 - Cover letter
 - Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines