

Delegated Report

Planning Ref: 23/00638/TGDO
Applicant: Ms Dianne Perry
Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: 68 Upper Bond Street Hinckley Leicestershire LE10 1RJ

Proposal: Installation of a 20m monopole with 12 antennas, 2 dishes, 1 wraparound cabinet at the base, 3 ground based cabinets and ancillary development thereto.

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 12 antennas, 2 dishes, 1 wraparound cabinet at the base, 3 ground base cabinets and ancillary works thereto. 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 the eastern corner of Esso fuel station at Upper Bond Street, Hinckley. The surrounding has a mixed of employment and settlement. It is close to Druid Street conservation area.
- 3.2. The immediate surrounding has an air pump, a wall mounted AC unit, a security camera, a 4.7m tall garage canopy, signage with over top lighting, an Esso sign (approximately 6.4 metre height) and a 2.8m brick wall.
- 3.3. The surrounding street scene has a mixed of settlement and employment facilities.

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. No comment received from neighbours as a result of the publications.
- 5.3. LCC Highways were consulted and have provided the following comments:

There would be appear to be no material impact on the public highway as the proposal is situated outside of the extents of the public highway. Therefore, the local highway Authority has no comment to make.

Hinckley DeMontfort Ward members have no comments.

Hinckley Area Committee has no comment.

HBBC Town Centre Management has no comment.

6. Policy

- The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- Policy 12a of the Hinckley Town Centre Area Action Plan (2011) – Area of Mixed Use, Upper Bond Street
- Policy DM10, DM16 and DM17 of the Site Allocations and Development Management Policies DPD (2016).

6.1 Policy 12a of the Hinckley Town Centre Area Action Plan states that development within Upper Bond Street area should retain architectural significance and should not reduce existing employment use of the site to less than 1.75 hectares. Masts and telecommunications equipment does significantly impact on the employment use.

6.2 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.

6.3 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.

6.4 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 (2021)
- 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 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 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; of
 - (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 not be located on highway land and 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.

The proposed 4 bollards form part of the development but do not 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 12a of the Hinckley Town Centre Area Action Plan states that development within Upper Bond Street area should retain architectural significance and should not reduce existing employment use of the site to less than 1.75 hectares. The proposed applications relate to the siting and appearance (design) of the mast.
- 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 application is accompanied with a site specific supplementary information document (SSSI) which states that a sequential approach to site finding was adopted. Alternative sites were explored and there was no requirement to upgrade or share the existing sites. No suitable building available for the operator to utilise a rooftop apparatus.
- 8.6 The site selection process identified 9 alternative sites explored however they were discounted for reasons such as lack of space to deliver the required level of coverage to the target area, construction works not providing designs to support apparatus, and low level of other rooftops.
- 8.7 Paragraph 118 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. No objection was received in regard to the need of the mast. The site specific supplementary document justifies that the location is constrained by coverage and therefore the need to meet the extent of coverage within the area.
- 8.8 No objections were received in regard to the proximity of the proposed mast to residential dwelling, commercial facilities and the Druid Conservation Area. Paragraph 116 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 118 requires local planning authorities to determine application on planning grounds only. The proposed mast is located on the forecourt of a petrol filling station, surrounded with a mixed-use character and no major planning constraint relating to the site. It is situated on the outside of the public highway. The street scene has a number of lighting columns and telegraph poles of approximately 10 metres high and commercial signage. The surrounding buildings has a maximum height of 7 metres. The proposed mast goes higher than all vertical infrastructure on the street. It introduces a new form of development in the street scene, however, appear less visually sensitive as a result of its location to the eastern corner of the fuel station, galvanised and grey colour of the monopole and cabinets respectively. The mast is bordered by a 2.8 metre high brick wall and bollards and does not obstruct visibility splay and movement of people. The mast is closely related to the cabinets.
- 8.10 No objections were received in regard to the mast being out of character, large and intrusive, higher than neighbouring houses, trees, and light poles, and impact on the Druid Conservation Area. It is considered that the mast and equipment would not detrimentally affect the character or appearance of the area.
- 8.11 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.

- 8.12 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.
- 8.13 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 and LCC as Highway Authority, Hinckley Area Committee and HBBC Town Centre Management were consulted.
- 8.17 The applicant provided evidence of site provider letter, developer notice and consultation letters.

Health

- 8.18 No objections were received in regard to the impact on health, exposure to radiation, and impact on the use and function of the site.
- 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.
- 8.20 The applicant has provided a Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines dated 27/06/2023 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.
- 8.21 The 'ICNIRP Declaration' *certifies that the proposed site shall be operated to be in full compliance with the requirements of the radio frequency (RF) guideline limits of the International Commission on Non-Ionizing Radiation Protection for public exposure and UK.*

Noise

- 8.22 No objections were received regarding noise from monopole and other environmental reasons.
- 8.25 Noise from the proposed development is considered to be minor. 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 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 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), Policy 12a of the Hinckley Town Centre Area Action Plan, 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 No: 1673705_HAB055_LE7399_96478_M005 Issue: E (submitted 29.06.2023) 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

2. Prior to the installation of the mast, all existing apparatus marked to be removed and relocated on the approved plan should be removed and relocated accordingly.

Reason: To ensure that the equipment is appropriately design, arranged to take account of the environment and minimised their visual impact 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
 - Coverage Plan
 - Consultation Letter
 - Drawings No: 1673705_HAB055_LE7399_96478_M005 Issue: E
 - Application letter
 - Declaration of Conformity with International Commission on Non-Ionizing Radiation Protection Public Exposure Guidelines