

CHERWELL DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

Appeal by Harlequin Group against the decision by Cherwell District Council to refuse full planning permission for the installation of a 21 metre high RT Swann Lattice tower on a new concrete base, with 6 antennas, 2 dishes, 4 cabinets and ancillary development on land adjacent to the B4035, near Sibford Gower.

Appellant : Harlequin Group

Appeal Site : 02
Land Adj To B4035 CTIL 201348
Unnamed B4035 Single Carriageway 6811256
Sibford Gower

Appellant's Agent : Norman Gillan
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Aberfoyle
Stirling
FK8 3UH

LPA Reference : 16/02150/F

Planning : APP/C3105/W/17/3174363
Inspectorate
Reference

1 INTRODUCTION

1.1 The Local Planning Authority's (LPA) case in this appeal is principally as set out within the officer's report for the planning application, a copy of which was sent to the Inspectorate with the appeal questionnaire. This Statement of Case does not intend to repeat or duplicate the arguments set out in this report, but instead focuses on responding to and clarifying the key issues that arise from the appellant's grounds of appeal.

2 COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL

- 2.1 It appears to the Local Planning Authority that the appellant's grounds of appeal raise three main issues; the relevance and application of Saved Policy C39; the justification for the need for the proposed development in this location (including discounted sites); and the weight to be afforded to the benefits of the development verses the harm.

Saved Policy C39

- 2.2 The appellant has queried how useful Saved Policy C39 of the Cherwell Local Plan 1996 is, given the changes that have occurred in over twenty years since the policy was first adopted. It is recognised that technology requirements have changed significantly since this policy was first adopted, however this policy has been found to be broadly compliant with the provisions of the NPPF and therefore it is considered that significant weight can be afforded to this policy. The policy puts an emphasis on telecommunications structures sharing facilities where possible, being erected on an existing building or structure and not causing harm to the Cotswold Area of Outstanding Natural Beauty. This is consistent with Paragraph 43 of the National Planning Policy Framework which states that 'where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate', and 'the numbers of radio and telecommunications masts and the sites for such installations (should be kept) to a minimum...existing masts, buildings and other structures should be used, unless the need for a new site has been justified'.

Justification for the Development

- 2.3 Paragraph 45 of the National Planning Policy Framework states that 'applications for telecommunications development...should be supported by the necessary evidence to justify the proposed development'. The policy goes on to state that this should include 'for a new mast or base station...evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure'. This wording clearly puts the onus on the applicant to demonstrate that the telecommunications mast could not be accommodated elsewhere in the local area and that a new mast is required.
- 2.4 As both local and national policy shows, there is a presumption in favour of telecommunications infrastructure, providing the development is sufficiently justified in terms of the proposed location, particularly where it would involve the erection of a new mast. At the application stage, very limited information was submitted to justify the

proposed telecommunications tower in this location. No coverage maps were submitted and only a short list of other potential sites were put forward, some of which were considered to be clearly unviable sites for telecommunications equipment and would never have been up for serious consideration.

- 2.5 Coverage maps have been submitted with this appeal, which show the coverage in the area before (without any 4G provision) and after (with 4G provision). It is considered that these should have been the starting point for any consideration for sites of the lattice tower, and it is still not clear how these maps have informed the selection and consideration of discounted sites. Of the 'discounted' sites, the appellant considers that only one of these would have possibly been a viable alternative, 'D3', which was located at Elm Farm to the east of the site, although this was discounted because the landlord would not allow an installation. The other site considered to have potential by the Local Planning Authority, D3, is argued by the appellant to be far too low-lying whilst the remaining sites would clearly have never been appropriate, being located in close proximity to – or within – a conservation area or on a listed building or within school grounds.
- 2.6 The Local Planning Authority accepts that the consideration of alternative sites must be reasonable and this should not be an exhaustive exercise. Nevertheless the appeal site is clearly sensitive in landscape and visual impact terms, and the Local Planning Authority remains of the view that consideration should be given to alternative sites that are at least potentially suitable and not as obviously constrained as the sites considered and discounted by the appellant. In particular, it remains unclear how the appellant has selected the sites it has considered, and there is no obvious consideration given to installing the equipment on existing masts in the area.
- 2.7 Paragraph 4.14 of the appellants' statement of case states that 'Local Planning Authorities should not question the need for the telecommunications system'. This was not done in this application, but this does not negate the need to be satisfied that new masts are both necessary and justified in the location proposed. It remains the case that the proposed siting would cause harm to the rural character of the area and the special character and setting of the AONB and that, in the Local Planning Authority's view, it had not been sufficiently demonstrated that there is a need for a new site in this exact location, or that the benefits would outweigh the harm caused. The National Planning Policy Framework clearly puts the onus on applicants to submit this information to demonstrate that other sites with genuine potential, including existing telecommunications sites that could be shared, were considered.

The planning balance

- 2.8 In paragraph 5.2 of the appellants' statement of case, it is stated that the Council have not given enough weight to all relevant considerations in coming to its conclusions. It is considered that the main material considerations in this application were the principle of development and the impact on the character of the area. It is considered that insufficient information was submitted to demonstrate the need for a new mast in this specific location and that the harm caused to the character of the area and the AONB would outweigh this and the wider benefits of the scheme.
- 2.9 Policy ESD 12 of the Cherwell Local Plan 2011 – 2031 Part 1 specifically refers to the Cotswolds Area of Outstanding Natural Beauty and states that 'high priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate development'. AONBs are afforded the highest level of protection, as recognised by Paragraph 115 of the NPPF. However even outside of these areas, Paragraph 43 of the NPPF recognises that the number of new masts should be kept to a minimum, and Paragraph 17 recognises the roles and character of different areas including the intrinsic character and beauty of the countryside.
- 2.10 The proposed siting of the development is in close proximity to the B4035, which the appellants' state in paragraph 3.5 of their statement of case is a 'small local road'. This statement is disputed, as it links two historic market towns with Banbury to the east and Shipston-on-Stour to the west, and is a main route into and out of the Cotswolds AONB. The development would be partially screened by trees, however given its significant height, close proximity to the road and siting at the top of a hill, with the roads from the south and west rising towards the appeal site, the development would cause harm to the rural character of the area.
- 2.11 Apart from the road, the lattice tower would be visible from the nearby public footpath, FP 348/17/20 to the east. The appellant has submitted photomontages which seek to demonstrate that the development would not be clearly visible from vistas along the footpath. Whilst existing vegetation would partially screen the tower, the lattice tower would still be clearly visible and would represent a visual intrusion into the currently uninterrupted, rural skyline of the area. Moreover the appellant has provide a single montage from the southernmost point of the footpath, and it is considered this does not convey the full impact of the mast on the skyline and views looking north west when travelling along the footpath.

2.12 The proposed telecommunications tower would be located within 300m of the Cotswolds Area of Outstanding Natural Beauty. The site is considered to be at a gateway to the AONB and when one is travelling along the B4035, particularly from the west to east, the lattice tower would be clearly visible when one is leaving the AONB. In paragraph 4.11 of their statement of case, the appellant has stated that existing trees would screen the tower. Whilst it is recognised that the trees may currently partially screen the tower, it is not possible to control these in the future and the trees may be removed. This would make the tower even more prominent when exiting the AONB and from the surrounding public footpath network.

2.13 Turning to the planning balance, the Local Planning Authority recognises the weight attributed by the NPPF to supporting the growth of telecommunications systems and networks, and that any new masts in a countryside location are likely to cause some harm. However in this case the location chosen is considered particularly sensitive and harmful to the setting of the AONB, at a gateway to the AONB and visible from public vantage points along the highway and the public rights of way network. Given that AONBs are afforded the highest level of protection, and given the Local Planning Authority is not persuaded that proper consideration has been given to genuine alternative sites, the benefits that would be delivered in this case are not considered to outweigh the harm.

3 CONCLUSIONS

It is the opinion of the Local Planning Authority that the appeal proposal clearly conflicts with Government guidance contained within the National Planning Policy Framework as well as development plan policy for the reasons set out in its decision notice, the case officer's delegated report, and this statement of case. Accordingly, the Inspector is respectfully requested to uphold the decision made by the Local Planning Authority and dismiss this appeal.

4 SUGGESTED CONDITIONS

If, notwithstanding the above, the Inspector is minded to allow the appeal, the following conditions are suggested as necessary to make the development acceptable:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application Forms and Drawing Numbers 100 B and 200 A.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained within the National Planning Policy Framework.

3. Prior to the commencement of the development hereby approved, a colour scheme for the lattice tower shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the lattice tower shall be finished in accordance with the approved colour scheme.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

(a) details of the proposed planting including their species, number, sizes and positions, together with grass seeded/turfed areas;

(b) details of the hard surface areas, including surface materials. Thereafter the development shall be carried out in accordance with the approved landscaping scheme.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.