

# North York Moors National Park Authority

## Town and Country Planning Act 1990

**Appeal by:** Cornerstone

**Against:** Refusal of prior notification for erection of 17.5 metre high mast with antennas and remote radio heads together with associated ground based equipment under Part 16 (revised scheme following refusal of NYM/2022/0453)

**Location:** Gateway Centre Garages, Whitegate Close, Staithes

---

### Statement by Local Planning Authority For Written Representations Appeal

---

#### Contents

- 1.0 Introduction
- 2.0 Appeal Site and the Surrounding Area
- 3.0 Relevant Site History
- 4.0 Proposed Development and the Decision
- 5.0 Planning Policy and Guidance
- 6.0 Local Planning Authority's Case
- 7.0 Conclusion

## **1.0 Introduction**

- 1.1 This Statement refers to the refusal of a prior approval for development on behalf of an electronic communications code operator for the purpose of the operator's Electronic Communications Network for the erection of a 17.5 metre high mast with antennas and remote radio heads together with associated ground-based equipment under Class A, Part 16, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.2 The Prior Notification was refused by North York Moors National Park Authority (NYMNP) as the Local Planning Authority (LPA) on 5 April 2023.

## **2.0 Appeal Site and the Surrounding Area**

- 2.1 Staithes is a coastal village located approximately 13km to the northwest of Whitby and approximately 6km east of Loftus. The village is accessed off the A174 (Whitby to Teesside Road) within the nationally protected landscape of the North York Moors National Park and also within the North Yorkshire and Cleveland Heritage Coast.
- 2.2 The appeal site is located at the top part of the village (outside the Staithes Conservation Area), adjacent to the Staithes Pay and Display Car Park and between two garage/storage units. The proposed development would sit adjacent to some mature trees, storage units, domestic garages, industrial buildings, and residential properties. A public footpath runs from east to west, just to the north of the application site.

## **3.0 Relevant Site History**

- 3.1 A previous prior notification for the erection of a 20 metre high mast with antennas and remote radio heads together with associated ground-based equipment under Part 16 was refused on this site on 2 August 2022 (reference NYM/2022/0453). The reason for refusal was as follows: -
1. The proposed single 20m mast, would by reason of its height towering above nearby buildings and trees would constitute a dominating and unduly obtrusive feature in the wider townscape and have an adverse impact on the landscape and character of this part of the National Park contrary to Strategic Policy A and Policy BL10 of the Authority's Adopted Policies as set out in the Local Plan, which seek to conserve and enhance the landscape and ensure that the development does not have an unacceptable adverse visual impact upon the character of the locality and the wider landscape.

The appeal proposal was submitted following this refusal with the aim of overcoming the above refusal reason. No appeal was submitted to that earlier refusal.

#### 4.0 Proposed Development and the Decision

- 4.1 The proposal to which this appeal relates sought Prior Approval for the erection of a 17.5m telecoms mast with antennas and remote radio heads together with associated ground-based equipment.
- 4.2 The application was considered by the Director of Planning and refused under powers delegated to him by the Planning Committee on 5 April 2023 for the following reason:
1. The proposed single 17.5m mast, would, by reason of its height towering above nearby buildings and trees, constitute a dominating and unduly obtrusive feature in the wider townscape and have an adverse impact on the landscape and character of this part of the National Park contrary to Strategic Policy A and Policy BL10 of the Authority's Adopted Policies as set out in the Local Plan, which seek to conserve and enhance the landscape and ensure that the development does not have an unacceptable adverse visual impact upon the character of the locality and the wider landscape.

#### 5.0 Planning Policy and Guidance

This section covers both the statutory Development Plan and the general implications of the location of the appeal site within a National Park.

At the time of decision, the Development Plan for the area formally consisted of the **North York Moors Local Plan** which was adopted by the NPA on 27 July 2020. (The Development Plan also consists of the Whitby Business Park Area Action Plan (2014), the Helmsley Local Plan (2015) and the Minerals and Waste Joint Plan (2022), though these do not contain policies relevant to this appeal). The most relevant policies in the determination of this appeal are considered to be:

**Strategic Policy A (Achieving National Park Purposes and Sustainable Development)**. This policy sets out that within the North York Moors National Park, a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes. New development should conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and also promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. Where there is an irreconcilable conflict between the statutory purposes the Sandford Principle will be applied and greater weight will be attached to the first purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park.

**Policy BL10 (Communications Infrastructure).** This policy states that the provision of infrastructure for radio, broadband and other telecommunications and information technology will only be permitted where it is of a scale and design appropriate to the National Park and helps meet the needs of local communities. There should be no unacceptable adverse visual impact upon the character of the locality and the wider landscape and should make use of the least environmentally intrusive option available.

Where there would be unacceptable harmful impact which cannot be mitigated by alternative siting or design, permission will be refused.

In the explanatory text it is acknowledged that modern communications are increasingly vital to those living in, working in or visiting the National Park. However, the remoteness and terrain of much of the National Park imposes limitations on services and deficiencies continue to exist. It goes on to state that this policy facilitates this expansion of broadband and mobile infrastructure for the benefit of all, whilst at the same time minimising any environmental and landscape impacts. Operators will be expected to show what consideration has been given to reducing their impact through mechanisms as mast sharing, the erection of antennae on existing structures (including electricity pylons) and through the use of existing features to screen masts.

A Joint Accord<sup>33</sup> was agreed in June 2018 between National Parks England and Mobile UK and was developed to complement the Code of Best Practice on Mobile Phone Network Development, recognising the special nature of the National Parks as sensitive environments that seek to support thriving communities.

**The National Planning Policy Framework** - Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. **The National Planning Policy Framework (NPPF)** does not change the statutory status of the Development Plan as the starting point for decision making but is an important material consideration in the determination of an application. Development that accords with an up-to-date Local Plan should be approved, and conversely development that conflicts should be refused unless other material considerations indicate otherwise. The North York Moors Local Plan (NYMLP) was adopted on 27 July 2020 under the provisions of the Town and Country Planning (Local Planning)(England) Regulations 2012 and does not conflict with national policies in the NPPF. It is therefore up-to-date and should be the starting point for any planning decision making in the North York Moors National Park.

The Government's commitment to the protection of National Parks is clearly set out in the NPPF (December 2023). Paragraph 182 says that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection.

Furthermore, whilst at the heart of the NPPF is a presumption in favour of sustainable development, Paragraph 182 also confirms that the scale and extent of development within these designated areas should be limited. It is clear therefore that the NPPF expects a different approach to be taken in National Parks both to plan making and decision taking compared with other areas outside of designated National Parks.

**Paragraphs 121-122 of the NPPF** refers to applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. It also sets out that local planning authorities must determine applications on planning grounds only.

The **North York Moors National Park** was formally designated in 1952 under the National Parks and Access to the Countryside Act 1949. The two key purposes are to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks and to promote opportunities for the understanding and enjoyment of the special qualities of the Parks by the public. When it appears that there is conflict between these purposes the ‘Sandford principle’ confirms that greater weight should be given to the first purpose, the conservation of the landscape (English National Parks and the Broads Circular 2010), ‘Environment Act 1995, part III: ‘National Parks’ DoE, 11 September 1996.

The **Levelling Up and Regeneration Act 2023** makes significant amendments to Section 11A of the National Parks and Access to the Countryside Act 1949 which is relevant to decisions by “relevant bodies” in relation to National Parks. Section 245 places a duty on certain bodies and persons in relation to the purposes for which National Parks are designated as follows:

In exercising or performing any functions in relation to, or so as to affect, land in any National Park in England, a relevant authority other than a devolved Welsh authority must seek to further the purposes specified in section 5(1) and if it appears that there is a conflict between those purposes, must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

## **6.0 Local Planning Authority’s Case**

- 6.1 The primary issue is considered to be whether the siting of a telecommunications mast of the height proposed, and in the location proposed would have an unacceptable adverse visual impact upon the character of the locality and the wider landscape, and whether any benefit to the local community outweighs that harm, and therefore be contrary to Strategic Policy A and Policy BL10 of the North York Moors Local Plan.
- 6.2 Modern communications are increasingly vital to those living in, working in or visiting the National Park. They provide online access for residents to services that otherwise can be physically located miles away, they are essential for businesses that are

located or would wish to locate in the National Park – especially in the tourism sector. They can also help visitors in their understanding of and navigation around the North York Moors. However, the remoteness and terrain of much of the National Park imposes limitations on services and deficiencies continue to exist.

- 6.3 Policy BL10 of the Authority's adopted policies facilitates this expansion of broadband and mobile infrastructure for the benefit of all, whilst at the same time minimising any environmental and landscape impacts. The Authority can support development that does not result in an unacceptable adverse visual impact upon the character of the locality and the wider landscape. It is also important that the siting of the installation makes use of the least environmentally intrusive option available. It is important to consider whether the proposed mast would have a detrimental impact on the character of the locality and the wider landscape.
- 6.4 Whilst it is appreciated that the surrounding context of the development site is varied, with a mixture of domestic garages, storage units, industrial buildings, a car park and residential properties, it is considered that the height of the proposed mast is inappropriate and would have a detrimental, dominating impact on the character of the surrounding area. At 17.5m tall, the exceptional height of the proposed mast would sit more than twice the height of the adjacent streetlamps and would significantly exceed the height of nearby dwellings, therefore failing to relate well to the surrounding context. The surrounding structures and buildings do not provide a sufficient backdrop to minimise the wider visual impact of the proposed development.
- 6.5 The Authority does not object to the principle of development or the location of the proposed mast; it is the overall height of the mast that the Authority is unable to support. The proposal to erect a single 17.5m mast does not represent an acceptable environmental and communications balance due to the wider visual impact from the height and impact on the character and appearance of the surrounding area. It is considered that potential sites to the south east of this site where there are larger scale industrial buildings should be explored further.
- 6.6 The appellant states that there is a significant need for the proposed infrastructure in this location, however, this is not reflected in the consultation responses and no letters of support have been received from local businesses or the local community.

## **7.0 Conclusion**

- 7.1 In view of the above considerations, the NPA respectfully requests that the Inspector dismisses the appeal on the basis that the proposed development is contrary to Strategic Policy A and Policy BL10 of the Authority's Adopted Policies, as set out within the Local Plan.
- 7.2 However, should the Inspector be mindful to allow the appeal, the NPA would wish to see the following conditions imposed: -

**Planning Inspectorate Reference:**  
**Local Planning Authority Reference:**

**APP/W9500/W/3330759**  
**NYM/2023/0107**

1. Notwithstanding the submitted plans the mast and equipment cabins hereby approved shall be coloured a matt grey and thereafter be so maintained.
2. If the use of the mast for the purposes approved permanently ceases the mast and all associated equipment shall be removed from the land and the land shall, so far as is practicable, be restored to its condition before development took place.
3. No external lighting shall be installed in the development hereby permitted.