

North York Moors National Park Authority

Delegated decision report

Application reference number: NYM/2024/0134

Development description: non material amendment to planning approval NYM/2021/0754/FL to allow for the decommissioning of the existing station tower mast from 17 June 2024

Site address: Bilsdale Transmitting Station, Bilsdale Moor

Parish: Bilsdale Midcable

Case officer: Rob Smith

Applicant: Arqiva Limited

Crawley Court, Winchester, SO21 2QA

Agent: Pegasus Planning Group Ltd

fao: Richard Morison, First Floor, South Wing, Equinox North, Great Park Road, Almondsbury, Bristol, BS32 4QL, Director of Planning's Recommendation

Approval subject to the following:

Condition(s)

Condition number	Condition code	Condition text
1	PL03	<p>The development hereby approved shall only be carried out in accordance with the application details dated 21 February 2024, as amended.</p> <p>The development shall otherwise accord completely with the approved plans and imposed conditions of planning approval NYM/2021/0754/FL.</p> <p>For the avoidance of doubt this permission does not authorise any of the following:</p> <ul style="list-style-type: none">a) Before 1 July 2024 substantive enabling works for the purposes of dismantling and removal of the station tower;b) Before 10 July 2024 the erection of a temporary crane and the subsequent dismantling and removal of the station tower mast structure;

Condition number	Condition code	Condition text
		c) Removal of the concrete base and any hardstandings and other structures relating to the development within the period 1 march to 31 July inclusive.
2	MCOO	The development shall only take place in accordance with the mitigation and monitoring measures specified in the email from Clarkson and Woods Ltd to the National Park Authority dated 18 April 2024 and the additional mitigation and monitoring measures specified in the Clarkson and Woods letter to Natural England dated 4 June 2024. For the avoidance of doubt this requires the undertaking of a further pre-development bird monitoring survey during the week commencing 24 June 2024 and the deployment of an Ecological Clerk of Works during the commencement of initial deconstruction activity and during the the erection of the crane.

Reason(s) for condition(s)

Reason number	Reason code	Reason text
1	RSN PD03	In order to enable the Local Planning Authority to retain control over future buildings at the site in the interests of safeguarding the landscape character of the locality and in line with Strategic Policies A and C and Policy UE2 of the North York Moors Local Plan, which seek to enhance and conserve the special qualities of the National Park and secure high quality design for new development.
2	RSN MISC00	To ensure that the development is carried out in a manner which protects the integrity of the internationally designated nature conservation interest of the land and in order to comply with Strategic Policy G of the Local Plan 2020.

Informative(s)

1	INFO09	Please note that the footpath/track situated adjacent to the development site hereby approved must be kept free from obstruction and open for use at all times before, during and after any works.
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Consultation responses

Parish

No objection

Highways

No objection

Natural England

Initial response – Further information is required to support a Habitats Regulations Assessment and SSSI assessment, in order to determine the significance of impacts and scope for mitigation.

Revised response – NE has confirmed that it is satisfied with the updated HRA and has no objection to the proposal subject to the agreed mitigation measures, to be secured via a planning condition.

MOD Defence Infrastructure Organisation

No objection

Ramblers Association

No objection subject to access to nearby public rights of way being maintained at all times.

Third party responses

None received.

Consultation/Publicity expiry

29 May 2024

Bilsdale Station Tower, located to right of new Bilsdale main transmitter mast



Background

Planning permission was granted in October 2021 for the deployment of an 80m lattice broadcasting mast together with 10no. equipment cabinets, access improvements works and ancillary development, for a temporary three year period. The purpose of the Station Tower was to provide emergency broadcast coverage to the surrounding wider area, prior to the replacement of the Bilsdale main mast following fire damage earlier in 2021. Construction of the replacement main mast is complete and in view of the progress made with commissioning of new equipment on it, the applicant considers that there is no longer a functional need for the temporary Station Tower.

Condition 2 of the 2021 permission requires that the development be carried out in strict accordance 'with both: the mitigation measures contained in the associated Habitats Regulation Assessment provide by the Local Planning Authority dated 5th October 2021 (including no construction or de-construction during the bird breeding season March to July inclusive) and the detailed specifications and plans comprised in the application hereby approved or in accordance with any minor variation thereof that may be approved by the Local Planning Authority.'

The Mast operator is now seeking to remove the Station Tower before the end of July (i.e. within the bird breeding restriction period specified in condition 2) and following pre-application advice has submitted this NMA for authorisation, under the flexibility allowed in principle within the wording of the condition.

The decommissioning works would include the removal of the Station Tower and ancillary cabinet development. The works would not include the removal of the Station Tower concrete base or surrounding hardstanding, the potential longer-term retention of these being subject of separate pre-application advice and a possible future planning application. The proposed decommissioning works would take approximately three weeks to complete; one week to set up the site including the deployment of a lifting crane, and two weeks for dismantling the structures and removal from site utilising HGVs.

The applicant states that there are several matters driving the proposed earlier decommissioning date. These include: the likelihood of fewer inclement weather days in June, meaning that the disruption period for the removal work should be minimised; the benefits of removing the Station Tower at the earliest opportunity to minimise the duration of visual intrusion, and; working with neighbours and landlord to avoid clashing with the start of the shooting season in August.

The purpose of the current decommissioning time restriction is to avoid works during the bird breeding season, in line with the mitigation measures originally proposed by the applicant prior to initial construction of the Tower. This NMA application is supported by a note prepared by Clarkson & Woods Ecological Consultants which addresses the implications of the proposed timing of removal of the Station Tower, specifically the potential for impact on breeding birds, taking into account the site constraints which include designation as SPA/SAC and SSSI. The note is based on two years' worth of site survey and monitoring data. Additional breeding bird survey data was gathered in 2024 in response to a request from Natural England. A separate HRA has also been prepared.

Main issues

Local Plan

As an application for a non-material amendment there is no express requirement under legislation or national planning policy and guidance to determine the application in accordance with the development plan. Nevertheless, as the proposal gives rise to important considerations with regard to the potential for impact on ecology, relevant planning policy in the Local Plan has been taken into account.

This includes:

Strategic Policy A – *Achieving National Park Purposes and Sustainable Development*. This Policy requires that a positive approach be taken to new development, in line with

the presumption in favour of sustainable development and where decisions are consistent with National Park statutory purposes.

Strategic Policy E – *The Natural Environment* states that the quality and diversity of the natural environment will be conserved and enhanced and that development which has an unacceptable impact on the natural environment, the wildlife it supports and the environmental benefits it provides will not be permitted.

Strategic Policy H – *Habitats, Wildlife, Biodiversity and Geodiversity* states that the conservation restoration and enhancement of habitats, wildlife biodiversity and geodiversity will be given great weight in decision making. It also states that development which is likely to have a harmful impact on protected or valuable sites or species will only be permitted where it can be demonstrated that there are no alternative options that would avoid or reduce the harm; suitable mitigation measures have been incorporated; any residual harmful impacts have been offset through appropriate habitat enhancement, restoration or creation on site or elsewhere, and; the wider sustainability benefits outweigh the harm to the protected or valuable interest.

The Policy requires that proposals which would have a likely significant effect on International sites and protected species be subject to Appropriate Assessment; and that proposals which would adversely affect the special interest features of a SSSI or the nature conservation interest of nationally protected species will only be permitted where the benefits of the development clearly outweigh the impact on the protected interest.

Considerations

In principle the decommissioning and early removal of the Station Tower is considered desirable, in order to avoid any unnecessary prolongation of landscape and visual impacts, as well as on related impacts on National Park special qualities including tranquillity and sense of remoteness. However, the location of the site within the North York Moors SPA/SAC and SSSI, and the related existing restriction prohibiting deconstruction activity during the period March to July inclusive in order to prevent disturbance to breeding birds protected via the designations, is a critical issue which needs to be considered.

The submitted bird survey data has informed preparation of the related Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017.

This concludes that, subject to mitigation, there would be no adverse effects on the integrity of the designated area. The required mitigation measures include a need for further site assessment of protected breeding birds, within a defined 'disturbance zone', to be undertaken immediately prior to demolition, to confirm presence or absence. An Ecological Clerk of Works is also required to be appointed to oversee works, including briefing contractors on measures to minimise risk of unnecessary or elevated levels of disturbance.

Natural England and the Authority's Senior Ecologist are satisfied on the basis of the updated information and proposed mitigation measures that there would be no adverse effects on the integrity of the SAC/SPA and that the potential for impacts on the associated SSSI has been appropriately addressed.

It is therefore recommended that permission be granted.

Public Sector Equality Duty imposed by section 149 of the Equality Act 2010

The proposal is not considered to unduly affect any people with protected characteristics.

Contribution to Management Plan objectives

Approval is considered likely to help meet Management Plan Outcome 6 which seeks to ensure that the National Park is a place of great beauty where local communities thrive.

Explanation of how the Authority has worked positively with the applicant/agent

The Authority has assessed the proposal in accordance with relevant development plan policy and engaged with the applicant to ensure that the proposals can be made acceptable with appropriate mitigation measures.