



Arqiva

Black Hill Transmitting Station
Salsburgh
Shotts
ML7 4NZ

North Yorkshire Moors National Park Authority
The Old Vicarage
Bondgate
Helmsley
York
North Yorkshire
YO62 5BP

www.arqiva.com

Our Ref: Aislaby / 140032

28 April 2017



VIA PLANNING PORTAL

Dear Sir / Madam

ARQIVA LTD

TELEVISION RELAY TRANSMITTING STATION AT LAND ADJACENT TO TOFT HOUSE FARM, MAIN ROAD, AISLABY, NORTH YORKSHIRE, YO21 1SF

VARIATION OF PLANNING CONDITION 1 OF PLANNING PERMISSION NYM/2012/0706/FL TO ALLOW FOR RETENTION OF COMMUNICATIONS MAST AND ASSOCIATED APPARATUS

SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 AS AMENDED

PLANNING PORTAL REFERENCE: PP-06029843

We submit herewith a planning application under Section 73 of the Town and Country Planning Act 1990, as amended.

The application has been submitted via the Planning Portal, together with:

- (i) A Location Plan (ref: 140032_00_004_ML003) sufficient to identify the site;
- (ii) A fee of £195 paid electronically as part of the on line submission process.

We trust we have provided sufficient, but if you require any further information, please do not hesitate to contact us.

Yours faithfully

✓

Peter Hayne MRTPI
Town Planning Manager
Arqiva





Town Planning Supporting Statement

1. The television relay site at Aislaby was originally developed in the 1980's by the BBC, but it is now operated by Arqiva who owns and operates the UK's terrestrial television network. The site also provides communication services for other electronic communications operators.
2. On the 23 November 1998 planning permission (NYM4/036/0032A/PA) was granted to replace the original 17m high timber broadcast relay pole with a 20m high lattice radio mast to support other electronic communications use. The permission was granted on a temporary basis for 4 years. On the 18 February 2003, temporary planning permission was granted (NYM4/036/0032H/PA) to retain the existing mast and associated equipment for a further 10 years.
3. On the 10th December 2012, planning permission was granted (NYM/2012/0706/FL) to temporarily retain the existing mast and associated equipment for a further 5 years as per Condition 1 below:

"The permission hereby granted is valid only for five years from the date of this permission and the development shall be removed from the site before this consent expires and the site restored to its former condition before that date".

4. Condition 1 was imposed in order that the Local Planning Authority could ensure that the details of the development comply with the provisions of NYM Core Policy A and NYM Development Policy 3, which seek to conserve and enhance the special qualities of the NYM National Park. The permission ends on the 10 December 2017.
5. We seek to vary the condition to allow the permanent retention of the radio mast and all existing apparatus until it is no longer required (obsolete) rather than a further temporary consent. This section 73 application is confined to considering the planning issues and reasons for Condition 1 and not to revisit the principle of the whole development, but like any other application, due regard should be paid to the Development Plan and other material considerations

Requirement for the existing installation

6. The existing installation at Aislaby is an important low power television relay station which now provides digital television coverage to the local community (around 700 homes) as part of the wider UK Digital Terrestrial Television (DTT) transmission network operated by Arqiva. The radio tower which supports television apparatus has a very important local function within the broadcast network, providing infill television coverage to a relatively small area of population that cannot receive full coverage from the main broadcast site at Bilsdale. The existing radio mast is also used to provide other important electronic communication services to the immediate area such as those for the mobile phone operators and 'blue light' emergency services. Such apparatus is now fully integrated into those operators' networks.

NYMNPA

28 APR 2017

7. The use of the site for television will certainly continue for some time. This is confirmed by the current Government project to undertake major changes to the whole of the UK DTT network as part of a national radio clearance project (called 700MHz clearance) which will free up radio spectrum to support other electronic communication services, very likely 4G mobile phone services. This television transformation project alone is a very significant project likely to take several years to implement. On this basis, the existing installation will provide television services to the local communities for the foreseeable future.

Policy Considerations

8. Reflecting more closely on the reasons to limit the existing permission for 5 years, we note that Core Policy A of the Local Development Framework seeks to encourage a more sustainable future for the Park and its communities whilst conserving and enhancing the Park's special qualities. The policy provides a number of key associated priorities including those relating to:
 - Providing a scale of development and level of activity that will not have an unacceptable impact on the wider landscape or the quiet enjoyment, peace and tranquillity of the Park, nor detract from the quality of life of local residents or the experience of visitors.
 - Strengthening and diversifying the rural economy and providing tourism based opportunities for the understanding and enjoyment of the Park's special qualities.
 - Enabling access to services, facilities, jobs and technology whilst minimising the environmental impacts of transport.
9. Development Policy 3 refers to various design considerations for any new development.
10. The existing radio mast is clearly an established and accepted structure with the Park, granted nearly 20 years ago (and replaced a former timber broadcast pole) and its retention allowed by the NYMNPA through successive permissions. Those planning permissions have clearly considered the siting and design of the radio mast and found to be acceptable, together with the demonstrated need for the radio installation. The surrounding trees and previously implemented landscaping help to screen the existing facility and reduce landscape impact. This circumstance has not particularly changed except for some routine works required as part of proper woodland management. Accordingly the trees will continue to help mitigate any landscape impact. We consider that the circumstances for allowing the retention of the radio mast have not changed and hence we consider that the retention of the mast and associated equipment will meet the specific requirements of Development Policy 3.
11. What is important is that there remains significant demand for wireless communication services, such as TV, radio and mobile communications across the whole of the UK. Rural communities, such as those within the Park boundaries, often feel frustrated when they cannot receive the same level of electronic communications services, for instance,



good quality mobile phone services. Often the lack of such provision within rural areas is due to a combination of economic and operational viability. Indeed the Government's Mobile Infrastructure Project (MIP) looked to readdress some of this balance by the deployment of new mobile infrastructure in rural areas with no existing provision ('not spots').

12. The important point being made is that the installation at Aislaby already supports a number of important mobile communication services which provide an important contribution to the local rural economy, social inclusion and attractive to visiting tourists. The radio mast and associated services operated from the site clearly provide a wider sustainability benefit by allowing, for instance, home working and providing public safety benefits. The retention of the radio mast at Aislaby will allow these important services to be retained for the local community and clearly this is supportive to many of the key priorities of Policy A.
13. Significantly for the television services being provided, the site forms part of a fixed television network based around relay sites and main sites that provide coverage across the whole of the UK. Any repositioning of this installation would significantly disrupt television services to the local community, so this is not a realistic proposition.
14. In further considering our Section 73 application it is very important that the National Planning Policy Framework supports the need for advanced and high quality communications infrastructure such as that provided at Aislaby to support sustainable economic growth. This is further reflected at local level within Development Policy 25 – Telecommunications. From the above it is clear that Arqiva has an ongoing and future operational requirement for the site and mast at Aislaby, especially as the terrestrial television relay station cannot be realistically accommodated elsewhere.
15. The supporting text to Policy DP25 of the Local Development Framework (LDF) advises at 10.23 that:

'Because of the rapid pace of change in technology, permissions will normally be temporary so that masts can be removed when they are no longer necessary to meet the requirements of the operator'
16. Notwithstanding this reference within the supporting text to Policy DP25, we draw attention to current Government Planning Practice Guidance on the use of planning conditions, <https://www.gov.uk/guidance/use-of-planning-conditions>, which states:

"It will rarely be justifiable to grant a second temporary permission – further permissions should normally be granted permanently or refused if there is clear justification for doing so".
17. Indeed former Circular 11/95: The use of conditions in planning permission offered similar advice.
18. Current Government guidance on the use of conditions also advises that:



"Identifying the circumstances in the Local Plan where consideration will be given to using conditions can add certainty to the process. However, it is still necessary to consider whether conditions would be justified in the particular circumstances of each proposed development, as a Local Plan policy cannot be used to justify a condition that does not meet the 6 tests."

19. Although the local planning authority has imposed successive temporary permissions for the radio mast at Aislaby, current guidance actually discourages repeat temporary permissions, particularly where a development is deemed to be acceptable, which is relevant to this case. The installation has been erected for nearly 20 years and now an accepted and established feature in the Park landscape.
20. Circumstances have not changed that might now warrant removal of the radio mast. In fact, if they have changed, the provision of new services from the radio mast (emergency and mobile phone services) and long-term television use (as mentioned earlier) simply seek to reinforce the importance of the installation in the future years.
21. It is important for the television transmission network we operate and other services operated from the site that we have more certainty and hence the retention of this installation on a more permanent basis. This would be in the wider public interest.

Recent policy approach

22. We note that more recent planning permissions for new radio masts within the National Park are not subject to temporary permissions, such as the examples of NYM/2016/0815/FL and NYM/2016/0831/FL. Indeed, the example of NYM/2016/0831/FL for CTIL, was also for the retention of a radio mast, so very similar to the application we make.
23. We note that to overcome the temporary permissions restriction, the local planning authority has now started to impose obsolete equipment conditions so that once a site ceases, apparatus must be removed within a specified timescale.

Our variation request

24. We consider that a similar condition would be appropriate to the application we make and hence we seek the variation of Condition 1 of planning permission NYM/2012/0706/FL, to the following:

"If the use of the radio mast and associated equipment cease or has ceased for a period of 90 days, it shall be removed from the land within 180 days of that cessation and the land shall, as far as practical, be restored to its condition before development took place, unless otherwise agreed in writing with the local planning authority".

NYMNP

28 APR 2017

25. In this way, the existing radio mast and services operated from the site, which are in the wider public interest, will be protected long-term, but sufficient controls imposed to allow the removal of apparatus once obsolete meeting relevant NYMNP planning policy.
