

Appeal Statement

Introduction and grounds of appeal

The appellant (Airwave Solutions Ltd) seeking to provide ongoing Airwave radio network coverage to this area of Berkshire. Airwave provides the current emergency services radio network with the existing radio mast at Church Farm providing local coverage around the appeal site. However, due to the redevelopment plans of the landowner at Church Farm, a Notice-to-Quit (NTQ) has been served on the Airwave and they must seek a new location from which to provide coverage. Airwave propose to replace this with a 30m mast¹ at the appeal site.

The appeal proposals are permitted development which means that there is already an in-principle approval for the appeal scheme. The only matters that require permission, or prior approval, are the 'siting and appearance'. In summary:

- Appearance: The mast will be located within a protected tree belt with large tall mature trees which, combined with its lightweight and light permeable structure, will help minimise its impact and help it assimilate into the landscape
- Siting: The site lies close enough to the NTQ site to allow good replacement coverage. Due to the height the antennas require, the location in a non-protected area where there are tall mature trees to provide screening, the best possible site (or the 'least worst') has been chosen.

On this basis, the appeal should be allowed.

Procedural Issues

1. The application site lies within a tree belt which is protected by a TPO. Should the appeal be allowed a separate TPO application to accommodate the mast would be required from the LPA. This would be accompanied by a tree survey.
2. The appellant is currently working towards a different solution however this requires planning consent and landlord agreement. Due to the nature of the proposals i.e. communications for the emergency services, the appellant cannot rely on that alternative being successful and so is pursuing this option at the same time. It is hoped that the Inspectorate understands this approach due to the serious implications of there being a period of time when the emergency services cannot communicate with each other in this area should there be an incident.

¹ The mast is actually 29.1m however we will be referring to the mast as a 30m mast throughout.

1. Background to appeal

- 1.1 The appellants, Airwave, provide infrastructure for the current emergency services radio network. The existing 25m mast at Church Farm (around 1km to the east of the appeal site) has been providing this coverage to this area for over 20 years. As the owner of the land on which the mast is located wishes to redevelop the land, Airwave are required to leave this site and look for another one.
- 1.2 As Airwave is a 'mature' radio network, the replacement mast must be located as close to the original mast as possible to ensure continuity of coverage.
- 1.3 Airwave is a Code Operator and as such benefits from certain permitted development rights granted through the General Permitted Development Order (GPDO) – this includes masts up to 30m, such as the appeal proposals. The Government encourages and enables the roll-out of new and replacement communications infrastructure through both planning policy and the granting of the permitted development rights being used for this proposal. These rights are granted based on the significant public benefit good quality connectivity brings.
- 1.4 The prior approval application process is different than for a planning application. Government guidance states:

Is a prior approval application like a planning application?

The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion as to what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.

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Further guidance on how prior approval appeals (and by definition applications) should be dealt with are contained in the Inspectors Training Manual April 2025 (referred to here as the ITM) and appended as Appendix 2.

- 1.5 The appellant applied for prior approval which the LPA refused for the reasons set out on the decision notice and explained though the delegated report. Discussed in procedural note 1, the applicant didn't provide further detail on the impacts on trees, through a tree survey, due to both the light-touch process and as this would be dealt with under a separate TPO application.

2. Impacts from proposal (siting and appearance)

- 2.1 The appeal proposals are permitted development, through the GPDO². This means that there is an in-principle acceptance of the proposal in this location (see paragraphs 17 – 51 of the ITM³). Permitted development rights for the proposals extend to 30m for either a new or replacement mast. Here, 30m is required to provide the required level of coverage and to replicate the existing coverage as closely as possible.
- 2.2 As permitted development which requires prior approval, the LPA could only consider the siting and appearance of the proposal. We consider these below.

Siting

- 2.3 Introduced above, the development proposal is for a replacement mast due to the current mast being structurally unsound. The appellant has permitted development rights to install the mast, and the new mast is, by definition, acceptable in principle.
- 2.4 The Supplementary Information Form (SIF) document, submitted with the application, sets out the site selection procedure (section 5, pages 11 – 13). Section 2 (pages 2 and 3) also show the existing masts in the area. Taken together, it can be seen that there are no existing masts, tall buildings or other structures which can be used. It also sets out other locations considered for a new mast.
- 2.5 Notwithstanding the TPO discussed below, the appeal site doesn't impact on any environmental, heritage or amenity designations.
- 2.6 At 30m in height, then the siting of the replacement mast will bring some impacts, this is unavoidable however, and it must be stressed, it is already considered that it is acceptable in principle in this location through the GPDO.
- 2.7 It is acknowledged that the siting is within a TPO area. The proposals would not impact any of the tall mature trees. The are chosen for the site involved a small cleared are to the rear of these well established trees where there are smaller and far more recently planted trees. The development will involve very little in the way of intrusive works based on the gravity solution for the mast which, in effect site on top of the ground. This will ensure the integrity of the root system of the tall and well established trees. A tree survey would accompany any TPO application should the appeal be successful. In effect, that process will ensure the LPA still have control over the impact on trees.
- 2.8 With the above being the case, the siting benefits from the trees which are around 22m-25m height to provide excellent screening, backdrop and a sense of scale to the site. This ensures that the mast would not be seen as an isolated feature. It's lightweight lattice structure and very thin antennas will ensure that in medium and long range views. This can be seen in the photos provided (Appendix 1) where we have annotated the mast onto the photos.

² Part 16 of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

³ Inspector's Training Manual – Mobile Telecommunications – Appendix 2 (dated 28 April 2025)

Appearance

- 2.9 The appeal proposals are for a replacement mast. This means that the 'prior approval' assessment is for a replacement mast under the terms of the GPDO. However, it is worth bearing in mind that it is also a replacement mast (in the wider sense of 'replacement'). Therefore, any impacts will need to be balanced against the loss of the nearby mast as well. The LPA show no evidence they have also considered the loss of the existing mast as part of their balancing exercise on siting and appearance.
- 2.10 The siting of the mast helps in terms of the overall appearance as the tall TPO tree belt help to assimilate the mast into the surrounding area. The three photos provided in Appendix 1 help to demonstrate this. This is helped by the lightweight structure and very thin antennas which differ from the normal antennas used by the mobile phone operators, and which are more normally associated with a mast such as this.
- 2.11 The three views show that in medium views only the top section of the mast would be visible. Whilst taller than the trees, it is not so tall as to be discordant.
- 2.12 The submitted details show a galvanised metal mast however, this could be coloured by condition should the Inspector thing this appropriate and would let the appeal to be allowed if it were the decisive element.
- 2.13 Even if the decision-maker had some concerns over impacts, the proposals are permitted development and so, in-principle, are already acceptable. The apparatus needs to be located somewhere in close proximity to the existing mast and locations outwith the designations cited by the LPA in their second reason for refusal are not in close proximity and cannot be explored.

3. Planning policy and guidance

- 3.1 Whilst S38(6) of the Planning and Compulsory Purchase Act 2004 doesn't apply to the assessment and determination of this prior approval appeal, planning policy is still material to the appeal proposals. As only the 'siting and appearance' of telecommunications apparatus is being assessed, then those policies which are drafted to deal with this will be the most pertinent and carry the most weight. General development policies do not capture the technical, locational and operational constraints of this essential public utility.
- 3.2 Unfortunately, whilst the Wokingham Core Strategy (paras 4.26 and 4.27) acknowledges telecommunications as being key infrastructure, the LPA has not followed through with this into their Managing Development Delivery document as this does not contain any policy for communications infrastructure.
- 3.3 The NPPF (especially Section 10) is supportive of new connectivity and the infrastructure required to provide it. Specifically, it advocates that LPAs:
- *“Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time;”*
- 3.4 As described, the LPA has no policies in place as to how communications infrastructure should be “delivered or upgraded” and so this has left the planning officers hamstrung and giving too much weight to policies which can't take the detail of siting and appearance of telecommunications development into account. Nor do those policies acknowledge the existing 'in principle' approval for the appeal proposals. The appeal proposals replace an existing site. The guidance given to Inspectors through the ITM sets this policy approach out well out well (paras 32 and 33).
- 3.5 In this case the LPA has concluded against policies in the Local Plan which have not been drafted for the siting and appearance of communications development. Because of this, the LPA has given too much weight to these policies which has resulted in the wrong balance being applied and with too much weight having been given to potentially harmful impacts.

4. Reasons for refusal

- 4.1 For this type of application, the LPA should only have been assessing the siting and appearance of the replacement apparatus - our analysis on this is set out above. This sets out why we believe the LPA got this wrong and why the Inspector should allow the appeal. Below sets out the specific disagreements.

Reason for refusal 1 – Impact on SANG and trees

- 4.2 The proposed mast is utilitarian because it forms a function as basic communications infrastructure. Most of this design can be found in National Park, National Landscapes and other amenity designations all across the UK. Antennas need to be located where coverage is required, and this area needs to have radio coverage for the emergency services. The SANG area is required because the adjacent urban area which is located in very close proximity to the mast. It would be unlikely that anyone using the SANG would expect to not see development which could be construed to be urban – this being immediately adjacent to a large new housing development. In any event, and ironically, 30m lattice masts are proportionately far more common in rural and countryside locations than urban locations where smaller pole-type masts are more common.

Reason for refusal 2 – Impact on the use of the SANG

- 4.3 Set out above, communications masts can be found in some of the most attractive and popular tourist areas across the UK and Europe – these areas remain popular despite the masts. The LPA has produced no evidence that visitor numbers to SANGs (specifically) drop-off when a communications mast is introduced - it is very unlikely there is such evidence. As the submitted photos show, there will be little impacts from the walking paths in the SANG.

Reason for Refusal 3 – highway safety

- 4.4 Any highway impacts can be managed, assuming there were impacts, when the applicant applied for a licence to the highway authority e.g. temp traffic lights could be installed. This is normal in rural areas when tree works are being completed or estate walls repaired. There should be nothing abnormal in a limited construction project being undertaken beside a road. Further, it may be possible for the appellant to deliver to the site the materials and vehicles via the land behind the trees rather than the highway side. This would have no impacts on highways. The LPA have cited Part 16 but the appellant is unaware of any part of Part 16 which would be relevant here. In any event, the LPA could have requested for more information as they made their decision well within the 56 days period (day 31 of the 56) and in any event, this time period is extendable if both parties agree. No request was made by the LPA.

Reason for Refusal 4 – alternative sites

- 4.5 The applicant has explained why the site is needed and where it is needed. They also provided a map and list of potential alternatives considered and discounted as part of the application (existing masts – page 6, surrounding Airwave cells – page 9 and discounted

options – pages 11-13). The suggested alternative by the LPA was too far north for the appellant to consider as it was outside their area of search. Paragraphs 56 – 65 of the ITM deal with this issue and it is worth quoting three parts of this:

- *“There is no requirement in the NPPF or the Order for developers to select the best feasible siting”*
- *“A lack of suitable alternatives could indicate that the proposal is the ‘least worst’ option. Given the acceptance of telecommunications equipment by the Order this could be a strong factor in favour of allowing the prior approval appeal.”*
- *“If the LPA and others have been unable to suggest any then you might reasonably conclude that there are none.”*

4.6 The LPA have also commented on the alternatives set out by the appellant in the application. The approach by the LPA presupposes that they will all have less impacts in terms of siting and appearance as this aspect is missing in their ‘comments’ column (from delegated report). Whilst the appellant does have powers under the Code to (in effect) compel landowners to host apparatus, this approach is not ideal. Setting up a multi-year land deal with a hostile landlord is not the appellant’s preferred approach. This is especially so when there is a location available which benefits from a willing landlord and extensive tree screening.

4.7 The appellant considers that they have chosen, in the words of the ITM, the ‘least worst’ option and that any harm is more than balanced by the lack of any more suitable alternative. Again, the LPA could have asked the appellant for clarification or more information in this regard.

4.8 We would stress three points when looking at these reasons for refusal:

- The prior approval is light-touch and should not seek to replicate a planning application, for example by seeking additional reports which don’t deal with siting and appearance - only siting and appearance are being considered
- The impacts on trees and highway safety are considered under separate regulatory regimes:
 - A TPO application (accompanied by a tree survey) would be required should the appeal be successful
 - A highway licence would be required should there be any impact from construction. Otherwise, the space shown is for maintenance where a vehicle could simply park like any other lay-by.
- Through its analysis and drafting of the reasons for refusal, the LPA has given a clear impression that the development plan policies have been applied and that it has concluded against them – contrary to how prior approval applications and appeals should be determined (para

5. Conclusions

- 5.1 Until such a time as the current Airwave system is operationally replaced by the 4G ESN network, there is a specific demand for Airwave coverage in this area. For the reasons set out the existing mast subject to the NTQ needs to be replaced to allow this continued coverage. The appeal proposals seek to remedy this with a replacement structure to accommodate the antennas and some additional ground-based apparatus.
- 5.2 The siting of the replacement Airwave apparatus has to be close to the existing mast to replicate the radio coverage. There were no existing masts, tall buildings or other structures which could be used. Evidence of other alternative sitings have been provided and explained. Bearing in mind the height required, the location, within a mature tree belt which helps to assimilate the mast is the best siting option available.
- 5.3 The appearance is that of a 30m mast and there are limits as to what the appellant can make this look like due to its specific function. It does look utilitarian because it is a utility and it is located adjacent to an (sub)urban area. The surrounding trees soften any impact ensuring it is not an isolated or discordant feature.
- 5.4 In terms of impacts on trees, the Inspector can be given some comfort buy the use of a gravity-based solution where there will be limited disturbance of the ground and hence roots. There has been some recent planting and some of the smaller trees may need to be removed however this would be considered as part of a TPO application which would be needed in any event. That TPO application would be accompanied by a tree survey.
- 5.5 In terms of impact on highway safety this would be managed in the same way as any other small development adjacent to the highway.
- 5.6 Notwithstanding that the application should be light-tough, the LPA chose to refuse the application without seeking any further information in respect of trees or highway safety. This would have been sensible if they required more information. The same is true of evidence of potentially suitable alternative (albeit the appellant consider they have provided that evidence as part of the application already).
- 5.7 There will be impacts from the mast however these are considered acceptable and the appellant can see no reason why it would make the area less attractive “*particularly for dog walking*”. The existing Airwave network has large lattice masts across National Parks, National Landscapes and heritage coasts, as does its proposed replacement the EE ESN radio network. In rolling out these networks, the appellant has never heard of dog walkers or other users stopping visiting due to the presence of the masts.
- 5.8 Even if the decision maker had some reservations over the scheme, in line with Para 60 of the ITM, with no more suitable alternative available, this may be the ‘least worst’ option and therefore “*given the acceptance of telecommunications equipment by the Order this*

could be a strong factor in favour of allowing the prior approval appeal” (para 60 of the ITM)

- 5.9 On this basis we respectfully ask the Inspector to allow this appeal to ensure the emergency services can continue to communicate in this area.