
Appeal Decision

Site visit made on 5 December 2017

by Simon Warder BSc(Hons) MA DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2 January 2018

Appeal Ref: APP/A1530/W/17/3182517

**Fingringhoe STW, Ballast Quay Road, High Park Corner, Fingringhoe
CO5 7BX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 16, Class A of the Town and Country Planning General Permitted Development Order 2015 (as amended).
 - The appeal is made by Wireless Infrastructure Group against the decision of Colchester Borough Council.
 - The application Ref 170219, dated 30 January 2017, was refused by notice dated 15 March 2017.
 - The development proposed is a 25m communications tower, antennas, ground based apparatus within compound.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal proposal is the erection of a 25m tall telecommunications tower and ancillary equipment. This form of development is permitted development under the Town and Country Planning General Permitted Development Order 2015 (as amended) (the Order), subject to confirmation that prior approval is not required. The Council gave notice that prior approval would be required in this case and refused to grant such approval. The Order specifies that the only matters to be considered in respect of prior approval are siting and appearance.

Main Issue

3. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area, including its effect on nearby trees, and whether any harm caused is outweighed by the need to site the installation in the location proposed having regard to the potential availability of alternative sites.

Reasons

4. Colchester Borough Core Strategy (amended 2014) (CS) Policy PR1 seeks to protect and enhance the existing network of green links and open spaces, including the River Colne. Policy ENV1 of the CS aims to conserve and enhance Colchester's natural and historic environment, countryside and coastline. It goes on to presume against development that would adversely affect the open and rural character of the undeveloped coastline. Policy SD2 seeks to ensure
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that facilities and infrastructure is provided to support sustainable communities and that it is located and designed so that it is compatible with the character and needs of the local community. Policy UR2 of the CS and Policy DP1 of the Council's Development Policies (amended 2014) (DP) promote high quality design. These policies concern issues of siting and appearance and are, therefore, a material considerations. The decision notice also cites DP Policy DP21 which seeks to conserve or enhance biodiversity interests. However, I am not persuaded that this policy relates directly to matters of siting and appearance.

5. Paragraphs 42 and 43 of the National Planning Policy Framework (the Framework) support the development of high quality communications infrastructure, which is essential for sustainable economic growth. Paragraph 43 also requires existing masts, buildings and other structures to be used unless the need for a new mast has been justified. Equipment at new sites should be sympathetically designed and camouflaged where appropriate.
6. The appeal site sits within the compound of a sewage treatment works (STW) situated between Ballast Quay Road and Ferry Road. It would be located close to the southern boundary of the compound, which is marked by a row of mature trees. The ground level of the compound falls to the north and the land beyond continues to fall to the River Colne. Wivenhoe sits on the opposite bank of the river. Whilst the somewhat dispersed settlement of Fingringhoe lies mainly to the west and south, residential development extends towards the site along Ballast Quay Road and Ferry Road. Public footpath 133_2 runs along the southern boundary of the compound.
7. A quarry is located to the east of Ballast Quay Road. There are conflicting views within the appeal submissions regarding the future of the quarry. However, at the time of my site visit, fairly substantial and visible plant was still in place. The STW comprises mainly low level equipment and therefore, whilst extensive in area, it has a limited visual impact in medium or long range views. As such, the broad setting for the proposal is principally rural. The river is the strongest influence on the character of the landscape.
8. As well as a limited number of dwellings, the public areas along the waterfront at Wivenhoe offer extensive views towards the appeal site. By virtue of the recreational and tourist activity in the area, views from the waterfront are sensitive to change. From this location, the trees along the southern boundary of the compound appear close to a ridgeline as the land rises from the river. They are well integrated into the wider landscape structure. Therefore, I agree with the Council's Village Appraisal which describes the vicinity of the appeal site as 'An important area of trees and woodland providing attractive views over Wivenhoe Quay'.
9. I have no reason to doubt the appellant's estimate that the trees adjoining the appeal site are 15-20m tall. The 25m tower would, therefore be 5-10m taller than the trees and would be located in front of them in views from Wivenhoe. Although there are other belts of trees on the northern edge of the STW compound and on land to the north, they are on lower ground. Consequently, they would, at best, filter views of the bottom of the tower. The top of the tower would break the skyline and be prominent in views from Wivenhoe waterfront, notwithstanding that it would be some 330m away. The appellant contends that the narrow width (1.2m at the top) and lattice design of the

mast would ensure that it would not be bulky. However six antennae, each more than 1.9m deep, would be attached to a headframe at the top of the tower. This would add significantly to its visual bulk. As such, the tower would harmfully intrude into the essentially rural and undeveloped character of the landscape. Nor would it be sufficiently closely associated with the quarry or other built development to mitigate this effect.

10. It is also argued that an alternative design, such as a monopole would have considerable girth and would represent a uniform structure against an irregular backdrop. However, no material has been provided to illustrate this effect and I am not persuaded that the profile of proposed lattice design and antennae would be significantly less irregular than a monopole so as to successfully blend in with the treed backdrop. Whilst the tower would sit within the STW, that development is essentially low level and, therefore, would do little to mitigate the impact of the tower in public views from the north.
11. Since the land to the south and west of the appeal site is fairly level, the trees on the southern edge of the STW would be reasonably effective in screening public views of the tower from the vicinity of Ballast Quay Road and Ferry Road. They would also help to curtail views from the most easterly and westerly sections of footpath 133_2. However, neither those trees, nor other vegetation are sufficiently dense to prevent closer range views of the tower from the public footpath. Whilst the length of footpath affected would be fairly short, the tower, associated plant and compound would be located in close proximity to the footpath and would appear as an imposing presence from this sensitive recreational facility. Although public rights of way are not mentioned specifically in Table PR1 of the CS, the footpath forms part of the green spaces along the Colne River and, therefore, derives protection from Policy PR1.
12. The tower would be sited within a 10m by 10m fenced compound. The land on which this compound would be located falls to the north. The appeal submissions do not include a topographical survey, nor do the drawings show the finished level of the compound. However drawing HD101-21556/200 Rev C does show areas of cut and fill around the compound, although no site section is provided. Nevertheless, the area of cut to the south is shown to encroach into the canopy line of one of the trees. I understand that it is not the appellant's intention alter the existing trees. Nevertheless, in the absence of a tree report or sufficient information to accurately establish the extent of the excavation required to create the compound, I am not assured that the proposal would not adversely affect at least one of the trees on the southern edge of the STW. The loss of such trees would be harmful to the character of the area.
13. Consequently I find that the siting and appearance of proposal would have a harmful effect on the character and appearance of the area, including, potentially at least, nearby trees. As such, it would conflict with CS Policies PR1, ENV1, SD2 and UR2 and DP Policy DP1 and Framework paragraph 43 to the extent that it requires new sites to be sympathetically designed and camouflaged.
14. As well as the support for communications infrastructure provided by the Framework, my attention has been drawn to an Ofcom report¹ which identifies the need to improve coverage of the mobile communications network and to

¹ Ofcom Infrastructure Report – Connected Nations (2015)

Government initiatives, including amendments to the Order and revisions to the industry Code of Best Practice (November 2016). The appeal proposal arises from a need to replace the coverage which had been provided by a mast at Rowhedge. The operator of that mast was issued with a Notice to Quit in order to facilitate residential development. I have not been provided with full details of the Council's consideration of the implications of the loss of the Rowhedge mast when it granted planning permission for the residential development. Nevertheless, I have no reason to doubt that there is a need improve coverage in the area and the appellant has provided adequate information on this matter.

15. The appellant has also provided some information on a search of alternative locations for a mast. The appeal site falls outside of the defined area of search. Moreover, no information has been provided on the criteria used to select the 21 sites within the area of search or why others were not considered. Nor has substantive evidence been provided to support the discounting of a significant number of the identified sites on the ground of absence of land owner interest. On the basis of the information available therefore, I am not persuaded that the alternative site search is sufficiently robust to overcome my concerns regarding the effect of the proposal on the character and appearance of the area.
16. An existing mast close to Ballast Quay Road is located further from the appellant's preferred search area than the appeal site. It has been investigated by the telecommunications operator who considers that the mast would need to be increased in height to at least 30m to provide effective coverage for the need now identified. However, few details of the coverage of the existing mast or the need to increase its height have been provided. The existing mast is less prominently located in the landscape than would be the appeal mast. Even if it proved necessary to increase the height of the existing mast in order to serve the identified need in this appeal, on the basis of the information available, I am not convinced that it would be more harmful to the character and appearance of the area than the appeal proposal. Having regard to the requirements of Framework paragraph 43, I consider that the use of the existing mast should be investigated further.
17. I have considered the availability of alternative sites and the importance that the Government places on providing high quality communications infrastructure. Nevertheless, overall I find that the need to site the mast in the location proposed does not outweigh the harm caused by its siting and appearance.

Other Matters

18. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Conclusion

19. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR