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## Appeal Decision

Site visit made on 22 October 2019

**by Martin Small, BA (Hons), BPI, DipCM, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> November 2019**

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**Appeal Ref: APP/A3655/W/19/3234027**

**Highway Land at Egley Road, Hook Heath, Woking, GU22 0NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by EE Ltd. against the decision of Woking Borough Council.
  - The application Ref: PLAN/2019/0380 dated 12 April 2019, was refused by notice dated 6 June 2019.
  - The development proposed is the installation of a telecommunications base station on a highway-adopted grass verge on Egley Road, Hook Heath, Woking, GU22 0NG.
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### Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the installation of a telecommunications base station on a highway-adopted grass verge at Egley Road, Hook Heath, Woking, GU22 0NG in accordance with the application Ref PLAN/2019/0380 and the details submitted with it.

### Application for costs

2. An application for costs was made by EE Ltd. against Woking Borough Council. This application is the subject of a separate Decision.

### Procedural Matters

3. Article 3(1) and Schedule 2, Part 16, Class A.3(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) require the local planning authority, subject to regulations 73 to 76 of the Conservation of Habitats and Species Regulations 2017 (as amended), to assess the proposed development solely on the basis of its siting and appearance. My determination of this appeal has been made on the same basis.
4. The Council's Statement of Case refers to the emerging Site Allocations Development Plan Document (SADPD), which was submitted for examination in July 2019. From the evidence before me, the SADPD is still at the examination stage. In accordance with paragraph 48 of the National Planning Policy Framework (the Framework), weight may be given to policies in emerging plans according to the stage of preparation of the plan, the extent to which there are unresolved objections to relevant policies and the degree of

consistency of those policies with the Framework. The Council has not advised me whether there are any outstanding objections to relevant policies of the SADPD and I am therefore only able to give them limited weight.

## **Main Issues**

5. The main issues are i) the effect of the proposed development on the appearance of the area and ii) the need for the development to be sited in the location proposed.

## **Reasons**

### *Appearance*

6. The appeal site forms part of a small grassed area on the western side of Egley Road. The immediate area has a pleasant semi-natural appearance due to a number of trees and other vegetation, although a bus shelter, bus stop, lamp posts, road signs and Egley Road itself, which is a major route (A320) into Woking, identify the area as suburban.
7. The proposed base station would be set back from Egley Road and have existing trees to the south and west sides, providing screening and / or a backdrop for the installation. The proposed mast would be approximately 20 m tall. Drawing 03 Rev C indicates that the top of the tree canopy in its immediate vicinity is approximately 19 m, but Drawing 02 Rev C indicates the heights of the adjacent trees to be 15.5 m. If the lower figure is correct, the top of the mast would therefore protrude above the tree canopy by approximately 4.5 m. The panoramic photographs submitted with the application indicate that the antennas and upper part of the mast would be visible from much of the surrounding area.
8. However, the mast and antennas are reasonably slim and have an uncluttered form and thus would not be unduly intrusive in a wider panorama. Accordingly, the visual impact of the proposed base station would be limited, even when the vegetation is not in full leaf. It would also be seen in the context of the existing structures in the immediate area. Therefore, although the proposed development would not make a positive contribution to the street scene, neither would it be significantly harmful to the appearance of the area. I have no evidence of any written concerns about the development being expressed by any third parties.
9. The Council refers to the site being within an area allocated as open space within the emerging SADPD. The appellant has provided a copy of an extract from the draft SADPD Proposals Map showing this allocation, but the Council has not provided any information about it. As explained above, I am able to give the proposed allocation of this site as open space only limited weight.
10. Furthermore, I note from the extract of the Proposals Map that the allocated area is large relative to the appeal site, which is located to one side of the area. The proposed development would not, therefore, significantly detract from the appearance of this open space nor its intended function to provide a visual gap between Mayford and the Woking urban area. The Council has not specifically cited this allocation or the emerging SADPD in its reason for refusal of prior approval.

11. Policy CS21 of the Woking Core Strategy (2012) (the WCS) requires new development to make a positive contribution to the street scene. However, Policy DM22 of the Development Management Policies Development Plan Document (2016) (the DMP) is more flexible. This policy favours telecommunications equipment and installations provided that, amongst other things, they are sited and designed so as to minimise the impact on the visual amenity, character and appearance of the area. I have noted above that, whilst it would not make a positive contribution to the street scene, the proposed installation would be sited in the context of trees / other vegetation and other structures. It would thus be sited so as to minimise the impact on the area.
12. Accordingly, although I conclude on this issue that the proposed development would conflict with Policy CS21 of the WCS but comply with Policy DM22 of the DMP. Consequently, the development would have limited conflict with the development plan taken as a whole in this respect. The development would also conflict with paragraph 170 of the Framework on contributing to and enhancing the local environment.

*The need for the development to be sited in this location*

13. The appellant explains that proposed base station is required to address a gap in EE coverage and provide improved 2G voice and 4G data coverage for individuals using EE's network in this area, particularly along the section of the nearby railway line. It will also form part of the new 4G Emergency Services Network that will replace the existing Airwave TETRA radio service used by the emergency services.
14. The Council considers that the appellant has failed to adequately demonstrate the unsuitability of alternative sites within the urban area. However, the Alternative Site Assessment included within the Design and Access Statement is reasonably comprehensive and demonstrates the lack of more suitable alternative sites within the built-up area. I note that the Council has not put forward any other potential sites nor provided any other evidence to demonstrate that the proposed site is not the only one viable.
15. I am therefore persuaded that there is a need for the development to be sited in this location.

**Other matters**

16. The appeal site is within the Metropolitan Green Belt but as this appeal concerns an application for prior approval the question of whether the development is 'inappropriate development' does not arise. I therefore do not need to consider this matter further.
17. The site is also within the Outer Exclusion Zone (Zone B) for the Thames Basin Heaths Special Protection Area (TBH SPA) as shown on Map 1 of the TBH SPA Avoidance Strategy 2010-2015. Having regard to Article 3(1) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the effect of the development on the integrity of the TBH SPA is a matter I need to consider.
18. Given my conclusions above regarding the effect of the proposed development on the character and appearance of the area and the need for the development to be sited in this location I am minded to allow this appeal. The proposed

development is not directly connected with or necessary to the management of the TBH SPA. It is therefore necessary for me, as the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended), to determine whether or not the proposal is likely to have a significant effect on the designated features, either alone or in combination with other plans or projects.

19. The TBH SPA comprises a network of 13 sites extending over 11 local authority areas, including Woking Borough. The TBH SPA is a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended). The TBH SPA is designated for its internationally important habitat which supports breeding populations of three rare bird species; Nightjars, Woodlarks and Dartford Warblers. The Conservation Objectives of the TBH SPA are to ensure that the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to the achieving the aims of the European Council Directive on the Conservation of Wild Birds (79/409/EEC).
20. The appeal site lies between 400m and 5 km of the designated SPA. The most important impacts and activities identified by the Joint Nature Conservation Committee as threats and pressures on the TBH SPA do not include any associated with telecommunications development outside the SPA within Zone B. The construction of the base station and 6-monthly maintenance visits would lead to additional traffic movements but these would be very limited and their effects would be minimal.
21. It is therefore my conclusion that the proposed development would not, either alone or in combination with other plans or projects, be likely to have a significant effect on the internationally important features of the TBH SPA.

### **Conditions**

22. Any planning permission granted for development by electronic communications code operators under Article 3(1) and Schedule 2, Part 16, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is subject to the standard conditions. These include, under Class A(8)(b), compliance with the details submitted with the application. As Drawings Nos 02 Rev C and 03 Rev C specify the finishes of the mast and cabinets as Fir Green – RAL6009 there is no need for me to attach the conditions suggested by the Council in this respect.

### **Planning Balance and Conclusion**

23. The Framework supports the development of communications infrastructure. The limited conflict with the development plan and with paragraph 170 of the Framework is outweighed by the need for the development to be sited in this location.
24. Accordingly, for the reasons above, and having regard to the other matters raised, I conclude that the appeal should be allowed and prior approval is deemed to be granted.

*Martin Small*

INSPECTOR