
Appeal Decision

Site visit made on 28 January 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 1 April 2020

Appeal Ref: APP/Q3305/W/19/3240225

Side of Premier Inn, East Somerset Way, Wells BA5 1UA

- 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) (England) Order 2015 (as amended)
 - The appeal is made by EE Ltd against the decision of Mendip District Council.
 - The application Ref 2019/1149/TEL, dated 9 May 2019, was refused by notice dated 3 July 2019.
 - The development proposed is the installation of a 15m monopole telecommunications mast supporting 2no. 300mm dishes, with 3no. antennas mounted within a shroud, link AC cabinet, Cobra cabinet and Fredo cabinet.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of the installation of a 15m monopole telecommunications mast supporting 2no. 300mm dishes, with 3no. antennas mounted within a shroud, link AC cabinet, Cobra cabinet and Fredo cabinet, at side of Premier Inn, East Somerset Way, Wells BA5 1UA in accordance with the terms of the application Ref 2019/1149/TEL, dated 9 May 2019, and the plans submitted with it.

Application for costs

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

Background and Main Issue

3. As an electronic communications code operator, the appellant benefits from deemed planning permission for telecommunications development under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), subject to prior approval by the local planning authority of siting and appearance.
4. The principle of development is established by the GPDO and the provisions of the GPDO require the local planning authority to assess the proposed development solely upon the basis of its siting and appearance, taking into account any representations received. In this context, I have had regard to development plan policies and the National Planning Policy Framework (the Framework) only insofar as they are relevant to the siting and appearance of the development.

5. Prior approval was refused by the Council as it considered the proposed equipment lacked justification and would be prominent leading to visual clutter which would be harmful to the character and appearance of the area.
6. Consequently, the main issue is the effect of the siting and appearance of the proposal on the surrounding area.

Reasons

Siting

7. The appeal site is located on the grass verge adjacent to East Somerset Way, Wells. The proposal would be set back approximately 6.7 metres from the edge of the carriageway and is sited in close proximity to a line of trees which are approximately 8 metres in height. The grass verge and associated vegetation provides screening between the main road and the adjacent commercial and industrial buildings, including the Premier Inn hotel.
8. The appellant has indicated that network coverage in the area is currently provided by equipment located on the rooftop of Milton Priory House, Gate Lane. This is located approximately 120 metres from the appeal site. Due to redevelopment proposals the landlord has served a Notice to Quit to the appellant. As such an alternative location is required to ensure contiguous network coverage.
9. Paragraph 115 of the Framework states that for applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development. For new masts, evidence should be provided that the applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.
10. The appellants evidence includes a list of alternative sites which have been considered in the local area, and the reasons why these have been discounted. Based on the evidence provided I am satisfied that there has been suitable consideration of alternative sites. Whilst there is an existing monopole located approximately 20 metres from the appeal site, the appellant has indicated that their equipment is not compatible with this existing mast, and I have no evidence to contradict this assertion. I am therefore satisfied that there are no preferable, suitable or available alternative sites where the development could be located. Consequently, the proposal is in accordance with the requirements of the Framework with regard to siting of the development in the proposed location.

Appearance

11. There is a variety of street furniture within the environs of the site, including a signalised pedestrian crossing and street lamps. The Council is concerned that the proposal would be overly prominent and result in a cluttered street scene. The proposed monopole and accompanying cabinets would be painted green, which given their location within the tree line would go some way to minimise their appearance. Whilst the height of the pole means it would protrude above the tree line, I do not find that this would be prominent from anywhere but within close proximity to the site. Furthermore, the existing street furniture in this area, compared with the relatively large size of the verge means that the site would not appear overly cluttered.

12. I am mindful of the guidance of the Framework which states that new equipment should be sympathetically designed and camouflaged where appropriate. In this instance I am satisfied that the proposed colour scheme of the proposal would go some way to camouflage the equipment.
13. The proposal would not be an overly prominent feature in the street scene nor would it result in undue clutter. Consequently, the siting and appearance of the proposal would be acceptable. In so far as it is a relevant material consideration the proposal complies with policies DP1 and DP7 of the Mendip District Local Plan 2006-2029 Part 1 Strategies and Policies (LP). Together these policies seek, amongst other things that development is of a design which is appropriate to the appearance of the area. I also find that the proposal accords with paragraphs 112-116 of the Framework, which seeks, amongst other things that development supports high quality communications. The Council have referenced policy DP3 of the LP, however I do not find this relevant as it relates to the conservation of heritage assets.

Other Matters

14. The appellant states that prior approval¹ was submitted to the Council for a proposal identical to the appeal which was sited in close proximity to the appeal site. It is claimed that by virtue of the Council not replying within 56 days that scheme benefits from an extant consent. It is their view that this should have formed a material consideration when the Council determined this application. This is a matter which the Council disputes. Be that as it may, in any event, I am required to determine each application and appeal on its own merits, which is what I have done.

Conclusion

15. For the reasons set out above and having regard to all other matters raised, I therefore conclude that the appeal should be allowed.

S Shapland

INSPECTOR

¹ 2018/2958/TEL