The Planning Inspectorate

# Appeal Decision

Site Visit made on 9 November 2020

**by Mr Andrew Smith BA (Hons) MA MRTPI**

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

**Decision date: 17 November 2020**

**Appeal Ref: APP/P0240/W/20/3257564**
**Lower Harpenden Road, South of Luton Airport, Luton, LU1 3LP**

- 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 GPDO).
- The appeal is made by EE Limited against the decision of Central Bedfordshire Council.
- The application Ref CB/19/04299/TDM, dated 23 December 2019, was refused by notice dated 14 February 2020.
- The development proposed is 10.0m High HEL Replica Telegraph Pole on new D9 root foundation and associated works.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Pre-Submission version of the emerging Central Bedfordshire Local Plan 2015-2035 (the CBLP) was submitted to the Secretary of State in April 2018. There is nothing before me to indicate that the CBLP is currently at a stage that should attract anything more than limited weight. I shall consider the appeal on this basis.

3. Schedule 2, Part 16, Class A, Paragraph A.3 of the GPDO requires, amongst other provisions, a developer to apply for a determination as to whether prior approval will be required as to the siting and appearance of the development. Indeed, the Council's reason for refusing to grant approval relates solely to matters related to the proposal's siting and appearance and I shall determine the appeal on this basis. Accordingly, whilst the appeal site is situated within the Green Belt, the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise.

## Main Issue

4. Whether or not the siting and appearance of the proposed development is acceptable.

## Reasons

5. The appeal site occupies an elevated position within a locally designated Area of Great Landscape Value and is located alongside the Upper Lea Valley Way (the Way), a public right of way that forms a part of the National Cycle Network. The Midland Main Line railway line runs via a cutting that is located

upslope to the east, whilst, to the west, the land level falls away to Lower Harpenden Road (the road) and to the River Lea beyond.

6. The lands to the opposite side of the road relative to the site are comprised of the Grade II* listed Registered Park and Garden of Luton Hoo (the RPG). The heritage significance of the RPG is drawn, in part, from its established areas of managed parkland and woodland and by the ruralness of its wider setting. This significance is further defined by the estate's historic associations to the principal building upon the estate (itself Grade I listed) and to Lancelot 'Capability' Brown, a prominent 18th century landscape designer.

7. As set out in the Central Bedfordshire Landscape Character Assessment (January 2015), the site is positioned within the Lea Chalk Valley character area, which is distinguished, in part, by a wooded context, the winding course of the River Lea and a rural valley landform. The RPG makes up a notable portion of the character area, and thus strongly influences its rural landscape character and the composition of available views from upper slope locations within the valley.

8. The Way provides an important recreational route and a linkage between the urban area of Luton and the river valley. I witnessed various pedestrians and cyclists using the route during my inspection and I have no reason to doubt that it is popular in a recreational sense. The Way's value and appeal are synonymous with the open, wooded and idyllic cross-valley views that it offers from various vantage points. This is perhaps most clearly illustrated by the presence of, in immediate proximity to the site, a viewpoint defined by benches, sculptures and an interpretation board.

9. The intended compound would be bound by low-level post and wire fencing softened by proposed new planting to its perimeter and would not in itself have a prominent influence in landscape character or visual terms. However, the proposed 10m high monopole (the pole), whilst relatively slimline in form, would, however finished or coloured, appear as a highly intrusive addition to the landscape. Indeed, it would cause harm to the landscape character of the area and would be unduly prominent in visual terms. This is particularly so given the site's proximity and positioning relative to the Way and the inherent ruralness and value of cross-valley views that are available from the Way.

10. I accept that, when viewed from the RPG and public vantage points situated to the west of the site, the pole would occupy a setback position and be viewed in the context of other modern additions that are, at least in part, associated to the railway line. However, the RPG's historic significance is contributed to by how it can be viewed and enjoyed from external vantage points. The proposal would have a negative urbanising influence upon how the RPG would be read and experienced from the Way and would thus lead to less than substantial harm being caused to the heritage significance of this designated asset through development within its setting. Whilst I have noted reference to similar structures having been erected in edge-of-town locations, this is of little relevance to the proposal and associated issues that are before me here.

11. As set out in the National Planning Policy Framework (February 2019) (the Framework), advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband

connections. The scheme would be in line with Government aspirations in this context and would support high quality communications and digital connectivity by providing 5G services on a shared basis (including for emergency services).

12. I have no reason to doubt that the scheme would deliver tangible improvements to communication networks in the area. Indeed, the Framework indicates that the need for electronic communication systems should not be questioned when determining development schemes. I also accept that there would exist no realistic opportunity to upgrade any existing telecommunications site in order to deliver the planned for improvements, and that the position of the newly proposed base station would need to complement the existing network so as to offer continuous network cover.

13. Even so, in terms of the process that was undertaken to identify the site prior to a planning application being submitted, it is apparent that a very targeted search area that is set away from the developed extent of Luton was used. Whilst it is my understanding that the equipment is intended to offer coverage along the railway line and to improve coverage within areas situated to either side of the line, to my mind it has not been rigorously or persuasively demonstrated that the search area need necessarily have been so restricted.

14. In any event, whilst alternative sites were considered and discounted as part of the appellant's site selection process, detailed supporting information to corroborate that an exhaustive search of sites was undertaken and that potential alternatives were discounted on reasonable grounds is not before me. Indeed, the depth of evidence required to clearly demonstrate that a more suitable site is not reasonably available within the appellant's identified search area[1] has not been provided. Nevertheless, for the reasons set out under paragraphs 11-12 above, the public benefit of improved digital communications networks still attracts considerable weight in this case.

15. Whilst a relatively limited level of less than substantial harm would be caused to the heritage significance of the RGP, this must be considered alongside the significant harm I find would be caused by the proposal in general landscape character and visual impact terms. This is particularly when noting the high value of the local landscape that is under consideration. The scheme's benefits would not, I consider, outweigh its harms.

16. For the above reasons, the siting and appearance of the proposed development would not be acceptable. The proposal conflicts with saved Policies BE8 and NE3 of the South Bedfordshire Local Plan Review (January 2004) and with the Framework in so far as these policies set out that permission will not be granted for development which would adversely affect the landscape character and setting of an Area of Great Landscape Value and require that attention should be paid to a proposed development's impact on public views into, over and out of the site.

**Conclusion**

17. For the reasons given above, the appeal is dismissed.

*Andrew Smith*

INSPECTOR

[1] as identified at Figure 1 of Site Specific Supplementary Information, dated 21 December 2019