



Appeal Decision

Site visit made on 8 December 2020

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/K3605/W/20/3250724

Highways Land, Blundel Lane, Stoke d'Abernon KT11 2SF

- 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 Elmbridge Borough Council.
 - The application Ref: 2020/0119 dated 18 January 2020 was refused by notice dated 1 April 2020.
 - The development proposed is telecommunications mast, cabinets and associated apparatus.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The Council made reference in its determination to policies from its development plan, including Policy CS17 of its Core Strategy 2011 (CS) and Policies DM2 and DM16 of the Development Management Plan 2015 (DMP), as well as other policy documents in its Officer's report. As the principle of development is established by the GPDO, the provisions of Schedule 2, Part 16, Class A do not require regard be had to the development plan. Nonetheless, I have had regard to the policies of the development plan and any related guidance only in so far as they are a material consideration relevant to matters of siting and appearance.
4. There was an error in the postcode address used with the application (KT11 2SJ) and I have used the postcode used by the Council in its decision (KT11 2SF) and using which, the Council re-advertised the application.

Main Issue

5. The main issue in this appeal is the effect of the siting and appearance of the proposed telecommunications equipment upon the character and appearance of the local area.

Reasons

6. The appeal site comprises highway verge on the south side of Blundel Lane and to the immediate north of the railway tracks. It lies to the immediate north east of a residential property, Brambletye, which forms the easternmost property of a number of residential properties on the south side of Blundel Lane, with more open land further to the east of the site, on both sides of the road and railway line. The site and immediate surroundings contain a number of trees. A solid fence to Brambletye forms the south western boundary of the appeal site and there is security fencing along the railway line. There is a footpath with street lighting on this side of Blundel Lane.
7. The proposal would comprise a slim, 17.5m high monopole, with associated antennas and dishes, together with equipment cabinets on a 1m high base and surrounded by 2.1m high palisade fence around three sides of the compound, to be tied into the existing security fence to the railway tracks. I understand that the raised base would be required to ensure flood resilience, as identified in the Appellant's Flood Risk Assessment.
8. The proposed monopole would be significantly taller than the existing streetlights and taller than the surrounding trees. Nonetheless, its very slimline nature and the surrounding trees would help to soften and minimise its visual intrusion in the surrounding area. The proposed colour for the pole of 'Fir Green' would further assist in visually assimilating the pole into the local area.
9. The raised equipment would be contained within the proposed palisade fence. However, the equipment would be visible through and above the proposed fencing and both the equipment and the palisade fence would be very visible when passing along Blundel Lane, and particularly when approaching from the north-east. Although the pieces of equipment, taken individually and together, appear relatively small in scale, the raised base is shown on the submitted plans to have a footprint of some 4.4m by 2.0m and the palisade fence surrounding would extend to some 7m in length by 3m.
10. Although there is a functional security fence running along the length of the railway, it appears lightweight in form and is not visually intrusive. In comparison, the proposed base, whether the raised steel grillage platform or the raised concrete base shown on the application plans, and the palisade fence, given their overall length, materials and form would appear solid in form. The development would appear as a harsh urbanising intrusion, out of character with the semi-rural appearance of the surrounding area, particularly progressing away from the residential properties along this part of Blundel Lane. I do not consider that the proposed green colour for the base and fence would significantly reduce its harsh visual intrusion.
11. The Appellant Company has indicated that it would be prepared to consider an alternative form of fencing. However, there is no mechanism before me to seek this as the GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic

communications code operators. Furthermore, I cannot be satisfied that a change to the type of fencing would, on its own, overcome the harm I have found.

12. The proposal would conflict with Policy DM16 of the DMP which seeks, amongst other things, no significant adverse effect on the visual amenities of the area and Policy CS17 of the CS and Policy DM2 of the DMP, which seek respect for local character.
13. I conclude that the siting and appearance of the proposed telecommunications equipment would result in harm to the character and appearance of the local area. This is a matter to which I attach substantial weight.

Other Considerations

14. There are conflicting views before me about the mobile coverage in the local area. However, Paragraph 116 of the Framework is clear that the need for the telecommunications system should not be questioned. The Council has also indicated that following discussions with the Appellant, it is also satisfied that sufficient justification has been provided to demonstrate the need for and to discount other options for the telecommunications mast. I have no evidence to lead me to a different conclusion and am aware that the development is intended to assist in delivering voice, data and WiFi connectivity obligations for the train network, which thus lead to very specific coverage requirements, and which amount to a public benefit.
15. Concerns have been raised about potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
16. The owner of the adjoining property at Brambletye has indicated that the land where the proposal would be sited is within their ownership. I am satisfied that the Council had due regard to this issue in its consideration of the application and furthermore, this would need to be addressed under other legislation.

Planning Balance

17. The Framework recognises that planning decisions should support the expansion of electronic communications networks and the appellant has provided the necessary evidence to justify the proposed development. However, I have found the siting and appearance of the development would result in harm to the character and appearance of the area, which is not outweighed by these other considerations.

Conclusion

18. For the reasons given above and taking into account all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR