
Appeal Decision

Site visit made on 11 January 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2021

Appeal Ref: APP/J1915/W/20/3259494

Highways Land, Great Hadham Road, Bishops Stortford CM23 4PX

- 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 MBNL (EE UK LTD & H3G UK LTD) against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0937/TEL, dated 14 May 2020, was refused by notice dated 13 July 2020.
 - The development proposed is the installation of a 20m high slimline tower supporting 12 no antenna apertures with the installation of 8 no ground-based equipment cabinets and ancillary development.
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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 Article 3(1) and 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 appellants' evidence refers to the appeal proposal being an application for full planning permission. Nevertheless, the application as submitted to and determined by the Council, was for prior approval of permitted development under the GPDO as set out above. I have necessarily determined the appeal on that basis.

Planning Policy

4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have therefore had regard to the policies of the development plan, any related guidance and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issues

5. The main issues are the effect of the siting and appearance of the proposed development on the character and appearance of the area, 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

Character and appearance

6. The appeal site is located on the southern side of the Great Hadham Road (B1004), within the grassed highway verge. A housing development of predominantly two storey properties lies immediately to the south, with the nearest dwelling approximately 13 metres from the site. A vegetation covered fence runs between the back of the highway verge and the nearest houses. A footway runs along the opposite side of the road with a backdrop of mature trees and hedgerow which screen the school playing fields beyond.
7. The proposal would involve the installation of a 20 metre high telecommunications mast with a wraparound cabinet at its base and a further seven equipment cabinets, set in four groups, which would form a linear arrangement parallel to the road. The appellant indicates that the proposal is required to facilitate the upgrading of digital coverage in the area including the provision of 5G coverage. The installation would be shared between two providers and would also be compatible for use by the emergency services.
8. There is an existing 15 metre high mast and equipment approximately 85 metres west of the appeal site, at the rear edge of the footway, set within the context of relatively tall street trees. Streetlights, of approximately 8 metres high, are a feature of the street scene but they are situated along the northern side of the road. By contrast the area around the appeal site has a lower rise appearance and is largely devoid of trees and street furniture.
9. As a result of this existing character, I consider that the appeal proposal would be conspicuously large and out of scale in the context of the surrounding built and natural environment. Moreover, the close siting of the mast to the side and rear elevations of the neighbouring dwelling would result in an unsympathetic and incongruous relationship and would emphasise the disproportionate scale of the proposal. The number and scale of the cabinets required in connection with the mast would add to its visual impact. The proposal would cause a cluttered and crowded appearance to a part of the street which is currently quite open. The Great Hadham Road is a relatively straight road in this location and the proposal would be readily visible on the approach in either direction.
10. I acknowledge the existing vertical features within the street scene. However, these would not be sufficiently close to the appeal site to provide any effective screening of the proposed development. The proposal would not be integrated or assimilated into its surroundings. It would be prominent in views through the area including from nearby residential streets and properties and when travelling along the Great Hadham Road. Irrespective that it would be finished in grey to minimise its impact, by virtue of its excess height and its bulk, including the antenna and wraparound base, the proposal would be a dominant and visually obtrusive feature.

11. The existing mast and equipment have a very different relationship to the environment which surrounds them. That site is backed and flanked by vegetation and mature trees, other vertical street features are in proximity and there is a greater separation from lower level built form. Its position amongst the mature trees reduces the relative appearance of its height and lessens its prominence. I do not consider that the presence of the existing mast and equipment offers genuine support to the acceptability of the location of the appeal proposal.
12. I have been provided with photographs of other similar installations. However, these differ in their site specific circumstances from the appeal proposal, particularly in relation to surrounding development and other vertical features such as street lights, other masts and mature trees. These examples do not therefore lead me to a favourable conclusion in respect of the appeal scheme.
13. I therefore conclude that the siting and appearance of the proposed development would cause unacceptable harm to the character and appearance of the area. Although not determinative, the proposal would conflict with Policies ED3 and DES4 of the East Herts District Plan 2018 (DP) and Section 10 of the Framework. Collectively and amongst other matters these policies require development to be sympathetically designed and appropriately located and to respect the character of the site and the surrounding area.

Alternative sites

14. The Framework states that high quality and reliable communications infrastructure is essential for economic growth and social well-being and it supports the expansion of electronic communications networks, including 5G. Even so, the number of masts and the sites for such should be kept to a minimum and the use of existing masts, buildings and other structures is encouraged.
15. In this case, the existing 15 metre mast is shared by the 2 operators and it provides 2G, 3G and 4G coverage. However, it is not considered structurally suitable to host the necessary equipment for both operators to rollout 5G services in this location in its current form. The existing monopole would have to be increased substantially in height and bulk to accommodate all the technologies on one mast.
16. The Site Specific Supplementary Information justifies the location of the proposal partly on the basis that there are no alternative structures or buildings of sufficient height to utilise in the area and that to remove the existing mast, to enable a new structure to be built in its footprint, would cause a total blackout of services in the area.
17. The appellant also states the proposal would utilise one structure (supporting 2G/3G/4G and 5G), shared between two providers and would negate the need for an additional installation within this cell area. The appellant refers to the appeal proposal being a replacement mast, however, the evidence is ambiguous as it is further stated that the removal of the existing mast does not form part of this proposal as a definite timescale cannot be given for its decommissioning. I cannot be certain that the existing mast would be decommissioned and removed and therefore the weight to be given to the benefit of operators sharing the proposed mast is limited.

18. In addition, the evidence states that the choice of site for any base station is limited by the availability together with town planning and radio coverage constraints, and that in this case the search area was particularly constrained by underground services and space restrictions.
19. Nevertheless, there is very little detail about the particular site selection process or the specific constraints of underground services and space restrictions to demonstrate that the appeal site is the only viable option. Furthermore, whilst I have no reason to dispute that replacement of the existing mast in situ would result in a loss of service from that mast, no consideration appears to have been given to whether or not service could be maintained by the use of a temporary mobile mast during the construction period.
20. Consequently, I conclude that it has not been robustly demonstrated that the proposed development needs to be sited in this location, having regard to the potential availability of less harmful sites. Insofar as they are a relevant material consideration, I also conclude that the proposal would conflict with DP Policy ED3 and Section 10 of the Framework.

Other considerations

21. The appellant has referred to two appeal decisions related to sites in other Council areas. The heights of those masts and the site specific circumstances differ from those of the appeal scheme before me. Whilst mindful of those decisions, I must necessarily assess the appeal proposal on its own merits.
22. My attention has been drawn to a number of Government and industry statements and guidance documents including the Code of Best Practice on Mobile Network Development in England 2016. In this regard there is no dispute that high quality communications infrastructure is supported both nationally and locally. Furthermore, the ability to communicate electronically and access the internet via mobile devices has undoubtedly been even more evident during the Covid-19 pandemic. I also recognise the important contribution of the provision of mobile technologies to the emergency services and that EE has been selected to provide the new critical emergency services network.
23. I have taken account of these economic and social benefits and the merits of an effective and enhanced communications network. These are factors that weigh in favour of the proposal. Nonetheless, I do not find these benefits outweigh the harm to the character and appearance of the area that would be generated by the siting of the mast and associated works in such a location. Furthermore, the evidence does not make a convincing case that no suitable alternative sites exist, and that weighs against the proposal.

Conclusion

24. For the reasons above, I conclude that the proposal would not be acceptable in respect of its siting and appearance, therefore the appeal is dismissed.

S Tudhope
Inspector