



Appeal Decision

Site visit made on 6 January 2021

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/J0405/W/20/3248050

Land at Wotton End, Kingswood Lane, Wotton Underwood HP18 9RB

- 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 & Hutchinson 3G UK Ltd against the decision of Buckinghamshire Council – Aylesbury Area.
 - The application Ref 19/03830/ATN, dated 21 October 2019, was refused by notice dated 16 December 2019.
 - The development proposed is installation of 22.50m high Swann Engineering column.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 1 April 2020, Aylesbury Vale District Council ceased to exist and has now become part of a new Unitary Authority known as Buckinghamshire Council. I shall determine the appeal on this basis.
3. No application form was submitted to the Council, and the information contained within the banner heading has therefore been taken from the appeal form, which is consistent with the details included in the decision notice.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 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. Policies of the development plan and the National Planning Policy Framework (the Framework) may be considered relevant, but only in so far as they relate to these matters. My determination of the appeal shall proceed on the same basis.
5. The main modifications to the emerging Vale of Aylesbury Local Plan were subject to a period of public consultation. Although the emerging Local Plan has yet to be found sound, I understand that it has nevertheless reached an advanced stage of preparation, and a number of policies can therefore be afforded moderate weight. I shall therefore have regard to the emerging policies which have been brought to my attention, in so far as they are of relevance to the matters of siting and appearance.

Main Issue

6. The main issue is the effect of the proposal upon the character and appearance of the area, including the effect on the setting of nearby heritage assets.

Reasons

7. The appeal site forms part of an open field comprising a number of mature trees and relatively dense vegetation, which is accessed by a bridleway. It is situated within the Brill-Winchendon Hills Area of Attractive Landscape, and near a Site of Special Scientific Interest. Furthermore, the site lies within proximity to the Wotton Underwood and Ludgershall Conservation Areas, and the Grade I listed Wotton House, which is listed at Grade I on the Register of Parks and Gardens (RPG) as well. Within the RPG, there are also a number of structures, which are separately listed.
8. Insofar as it relates to this appeal, the significance of this Grade I listed RPG resides largely in its exceptional interest as an outstanding example of a C18 country house designed landscape which does not solely provide views within the grounds of the estate, but was also created to frame and unfold far reaching views onto the surrounding landscape. Similarly, the special interest of the Wotton Underwood Conservation Area, which encompasses most of the historic park and extends into the village of Wotton, derives primarily from the designated landscape associated with Wotton House. The special interest of the Ludgershall Conservation Area resides mostly in its high number of historic buildings and medieval shape and form of the village, largely surrounded by open fields.
9. In a number of selected views, the appellants' submissions show that the proposed development would be screened by trees, and I have no reasons to question that this would not be the case from certain positions, and at certain times of the year. That said, it remains unclear why some other important views have not been included within the photographic survey. In particular, the Heritage Impact Assessment notes that the upper portions of the proposed development would probably be visible above the tree line, notably to the north of the western avenue, which forms a key vista within the RPG, or from the Grade II listed Ha Ha.
10. In the absence of further evidence to the contrary, there is no certainty that the mast would not, in some views, protrude above the tree canopies and appear as an incongruous and intrusive feature. There is a possibility that it would interrupt the panoramic views around which the buildings and RPG were designed, whilst also eroding the appreciation of views onto the wider landscape. Furthermore, I have not been presented with any detailed information showing that the mast would be similarly screened at times of the year when the trees are not in leaf, which adds to my concerns regarding the visual impact of the proposal.
11. The photomontages also show that the proposed development would be visible from the junction between Kingswood Lane, Wotton End and the bridleway providing access to the site. Even accepting that the mast would not be particularly noticeable to motorists, who would have to be focused on the road, it would nevertheless be visible to pedestrians and cyclists, notably from the bridleway.

12. The proposed development would appear to be noticeably taller than any other features in the area, including the mature trees near which it would be sited. By reason of its overall height and location, the mast would protrude into the skyline and appear as a visually intrusive and conspicuous feature within this otherwise relatively unspoilt Area of Attractive Landscape, which remains to a large extent free of modern infrastructure. The fact that it would be painted brown would not satisfactorily mitigate the harm caused by the proposed mast.
13. Concerns have also been raised by the Council's Conservation Officer regarding the effect of the development on the settings of the Grade II listed Woodside Cottage and Lapland Farmhouse, which are located within relative proximity to the appeal site. Woodside Cottage is surrounded by woodland, and I am satisfied that the proposal would not cause harm to the setting of this Listed Building. I note that in respect of Lapland Farmhouse, the Heritage Impact Assessment states that there would also be a screening effect from deciduous trees. However, limited evidence has been presented to demonstrate the absence of harm with certainty, especially in winter views.
14. Whilst it is noted that there was no objection from Historic England, who found that the impact would be negligible, I note that concerns have nevertheless been raised by other consultees, including the Gardens Trust, the Buckinghamshire Gardens Trust and the Council's Conservation Officer. In the absence of sufficiently detailed evidence to the contrary, I cannot be satisfied that the proposed development would not harmfully intrude into the setting of Wotton House RPG. By reason of the contribution which the RPG makes to the Wotton Underwood Conservation Area, there would also be harm to the setting of this designated heritage asset.
15. The mast would be sited further away from the Ludgershall Conservation Area and due to the intervening separation distance, the proposed development would not cause harm to the setting of this designated heritage asset. I am also satisfied that the appeal scheme would not interrupt the relationship between the Ludgershall and Wotton Underwood Conservation Areas, as it would not be sited directly between these two areas of historic importance.
16. As the proposal would be located outside the RPG and the Wotton Underwood Conservation Area, the harm to the significance of the designated heritage assets would be less than substantial. Paragraph 193 of the Framework states that the more important the asset, the greater the weight should be given to its conservation. Consequently, I give each incidence of harm considerable importance and weight. In such circumstances, paragraph 196 of the Framework requires the harm to be weighed against the public benefits of the proposal, which I shall return to later in this decision.
17. The appeal scheme would unacceptably harm the character and appearance of the area, but also fail to preserve the setting of nearby heritage assets, having particular regard to the Grade I listed Wotton House Park and Garden, and the Wotton Underwood Conservation Area. It would therefore be contrary to Policies GP35, GP53 and GP100 of the Aylesbury Vale District Local Plan, and emerging Policies BE1 and I6 of the Vale of Aylesbury Local Plan. These seek to ensure, notably in respect of telecommunications developments, that proposals do not have a detrimental visual impact, respect the physical characteristics of the site and its surroundings, including heritage assets and their settings.

Other considerations

18. As detailed within the Framework, applications for telecommunications, including prior approval, should be supported by the necessary evidence to justify the proposed development. The location of the proposed mast, which would be sited within proximity to a railway embankment and track, would be shared by two service operators and has been selected by the appellants to improve the level of coverage and service in the 'HP18' postcode area and along a section of the Chiltern railway line that includes a short tunnel. The proposed mast is intended to be located away from direct views from residential properties.
19. The appellants' submissions include evidence of a sequential approach showing how the appeal site has been selected. The cell search area appears extremely constrained, notably by reason of the need to improve the level of coverage near the railway line. This has therefore limited the availability of viability options, but also the constraints in this area, especially due to the site's proximity to a number of designated heritage assets. As noted within the Site Specific Supplementary Information, only a small number of alternative sites appear to have been considered, but there is limited information explaining why they are not suitable. Overall, there is insufficient evidence to show that there are no alternatives available which would be less harmful than the proposed development.

Conclusion

20. The appeal scheme would support the provision of continuous digital connectivity and comprehensive digital coverage, along an important transport corridor. It would also provide support for effective communication for emergency services in this area. However, and whilst the Government supports the provision of advanced, high quality and reliable communications infrastructure, it also places great emphasis on the protection of heritage assets. The harm which the proposal would cause to the settings of heritage assets would not be outweighed by the presented public benefits.
21. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR