



Appeal Decision

Site visit made on 16 May 2022

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2022

Appeal Ref: APP/R0660/W/21/3285831

Mow Lane, Newbold, Astbury, Congleton, CW12 3NH

- 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 Limited against the decision of Cheshire East Council.
 - The application Ref 21/2841/C, dated 21 May 2021, was refused by notice dated 7 July 2021. The development proposed is the installation of 1No. 15m high Swann30H lattice tower, with 3No. antennas, 2No. 0.6m dishes, 2No. ground-based equipment cabinets, and ancillary development thereto, installed on a 8.0m x 6.0m compound within 2.1m high palisade fence.
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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 installation of 1No. 15m high Swann30H lattice tower, with 3No. antennas, 2No. 0.6m dishes, 2No. ground-based equipment cabinets, and ancillary development thereto, installed on a 8.0m x 6.0m compound within 2.1m high palisade fence at Mow Lane, Newbold, Astbury, Congleton, CW12 3NH in accordance with the terms of the application Ref 21/2841/C, dated 21 May 2021 and the plans submitted with it.

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 principle of development is established by the GPDO 2015 and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. The fact that the appeal site is in the Green Belt does not alter this. I have had regard to the policies of the development plan 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.
4. It has been suggested by some third parties that the landowner is opposed to the development. Whilst this may have implications for the implementation, I have made my decision based only on the planning merits of the case.

Main Issue

5. The main issue in the appeal is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Character and appearance

6. The proposed equipment and structures would be located on a mound in a field that is adjacent to a railway line which at this point is in a cutting. Trees and other vegetation are located along the top of the mound and between this and the boundary to the railway line. The surrounding area largely comprises grazing land with areas of woodland and small groups of houses. Boundaries to fields and roads largely consist of trees and hedges of varying heights, creating a relatively enclosed landscape. Roads in the vicinity are lightly trafficked. Vertical structures in the area largely comprises trees and telegraph poles, although the latter are often subsumed into the roadside vegetation. In places the top of the gantries associated with the railway line are visible.
7. The equipment cabinets would be located adjacent to the lattice tower and due to the surrounding vegetation, there would be no views of these from the public realm or the nearest houses. The lattice tower would be higher than the trees and vegetation flanking the railway. The distance from Mow Lane and the intervening area of woodland means there would be no visibility of it from this road or from the majority of the other local roads.
8. However, from Gorse Lane it would be possible to see the top of the tower from a number of locations, including the small group of houses located on the other side of the railway. In this largely rural area, where the main vertical structures are trees, despite the fact that views would be restricted to the top of the structure, the galvanised steel lattice tower and antennas would be an incongruous man-made feature that would not assimilate into the landscape. It would be much more prominent in the views than the railway gantries due to their position in the cutting.
9. Consequently, there would be some harm to the character and appearance of the area. However, this harm would be limited in its extent by the relatively small number of places from which the installation would be seen.

Benefits and planning balance

10. The Framework supports the provision of high quality and reliable communications which it states are essential for economic growth and social well-being (paragraph 114). As a result, it says that planning policies and decisions should support the expansion of the electronic communications network.
11. In this case the proposed mast is required to provide service and Wi-Fi to the West Coast Main Line railway that runs adjacent to the site as well as improving coverage in the area. As currently there is limited coverage, if any, along this stretch of track between Congleton and Kidsgrove, I give significant weight to the public benefit that would arise from the provision of a mobile service that would result from the development.

12. Given that the proposal is designed to provide a service to people using the railway line the area of search for potential sites was restricted to an area in close proximity to the track. Nonetheless, the appellant identified five other potential sites in the area, that were an acceptable distance from the railway, where the height of surrounding trees would not impact on operational performance and that had suitable access. These were all discounted either due to restrictive covenants on the land and/or because they would cause greater harm to the character and appearance of the area through the lack of any vegetation to help screen the proposal.
13. The Council has not disputed these findings or suggested any potential additional sites and from what I observed at my site visit I concur with the conclusions regarding the visual impact of the alternative sites. Moreover, given the rural nature of the area there are no other tall structures or buildings in the area that could be utilised instead of a freestanding mast. Nor is there any opportunity for mast sharing. Consequently, I am satisfied that there is not a more suitable site for the required facility.
14. The proposed mast would take the form of a lattice tower, and so would be a relatively light weight and compact structure, which in my view would be less harmful visually than a solid mast. Its height is necessary to ensure the antennas are not screened by the surrounding trees. Bearing in mind that the majority of the structure would not be visible from the public realm, I am not persuaded that a development with a lesser impact could reasonably be provided on the site, even though there is no evidence to show that consideration has been given to whether it could be disguised.
15. Bringing all these points together, having regard to national policy, the lack of alternative sites and the fact that a development with a lesser impact cannot be provided, I consider that the public benefits of providing coverage to the railway line as well as improving coverage in the local area, would outweigh the limited harm that the proposal would cause to the character and appearance of the area.
16. Policy CO3 of the *Cheshire East Local Plan Strategy (adopted July 2017)* (CELPS) and Policy E19 of the *Congleton Borough Local Plan (adopted January 2005)* specifically address telecommunications and digital networks. As I have concluded that the proposal would create the minimum possible impact on the area and would not harm living conditions of residents, there would be no substantive conflict with these policies. Nor with CELPS Policies SD2 and SE1 which relate to design and sustainable development principles.

Other Matters

17. 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.

18. Concern has been raised by some local residents regarding the potential impact of the proposal on living conditions. However, given the distance to the nearest dwellings and the intervening vegetation that screens much of it from view, I am satisfied that the proposal would not cause an unacceptable impact in terms of overshadowing these properties or on their outlook. Nor is there any persuasive evidence that the development would lead to a loss of property values or be harmful to wildlife or pollinators.

Conclusion

19. The proposal would cause some limited harm to the character and appearance of the area, but I consider this would be outweighed by the public benefits from the proposal. Therefore, for the reasons set out above, I conclude the appeal should be allowed subject to the standard conditions set out in paragraph A.2 to Part 16 of the GPDO.

Alison Partington

INSPECTOR