
Appeal Decision

Site visit made on 11 July 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/M1710/W/21/3282381

Carroway Contractors GF, Bowes Hill, Rowlands Castle PO9 6BT

- 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 (UK) Ltd against the decision of East Hampshire District Council.
 - The application Ref 23468/029, dated 15 April 2021, was refused by notice dated 9 June 2021.
 - The development proposed is telecommunications cell site mast and compound – 15 metre monopole with 3 antennas, 2 dish antennas, 2 cabinets and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015), 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. I have had regard to the policies of the development plan and the National Planning Policy Framework (Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issues are:
 - the effect of the siting and appearance of the proposed installation on the character and appearance of the area; and
 - if there is any harm caused, whether this is outweighed by the need to site the proposal in the location proposed, having regard to the availability of alternative sites.

Reasons

5. The appeal site lies within a commercial yard located to the rear of Rowlands Castle railway station with the railway line running to its east. A few mature trees and other vegetation enclose the site to the north and west. These lie on the boundary with gardens to residential properties on Uplands Road to the west and a scout hut to the north. Beyond the railway line to the east, there are a number of residential properties on Finchdean Road with an area of publicly accessible woodland and fields beyond.
6. The station area, including the appeal site and the development along Finchdean Road, is lower lying than surrounding development, including the houses on Uplands Road. In views from the east, the settlement appears to nestle into the sloping landscape with rooftops and trees visible. The South Downs National Park lies a little further away to the north and east.
7. The proposed mast would be 15m in height with a diameter of 324mm. It would support 3 antennas. It has been designed to be the minimum height it can be to provide the required coverage. It would be coloured brown and intended to replicate the appearance of a telegraph pole.
8. The base station and lower part of the mast would be viewed in the context of the commercial yard where it would cause little harm to visual amenity. However, due to its height, the upper part of the mast would extend above the higher ground level along Uplands Road. From this road it would be visible between buildings. Moreover, the rear boundary of the nearest dwelling along Uplands Road would be in close proximity to the proposed mast, indicated to be around 11m from it. From this garden and neighbouring gardens which also back onto the appeal site, the mast would appear prominent. This would be visually intrusive for these occupants.
9. Whilst trees bounding the appeal site would help to screen the mast, I observed that there was not continuous tree cover along this boundary and that much of the vegetation and the trees were deciduous. In addition, whilst indicated to reach a maximum height of 15m, many of the trees have not done so and therefore the mast would project above the treeline. Indeed, the submitted drawings indicate that this would be some 5m above the treeline. As such, the mast would not be effectively screened from views and would become significantly more visible during winter months when the trees are not in leaf. Furthermore, the trees and vegetation could not be relied on for screening as they may in future die or be removed. In such a scenario, the mast would become highly visible.
10. The absence of effective screening would result in the mast being visible in longer distance views towards the settlement from the west along Finchdean Road and from the open fields on the edge of the National Park. From here, the mast would protrude above the treeline and rooftops. In this context it would appear as an alien feature in a semi-rural landscape, visually prominent due to its height. This would not be overcome by its slender form or brown colour.
11. In views from the station itself, the mast, whilst tall would be viewed in the context of other vertical elements including lighting columns to the train platforms as well as with buildings. Against this background, it would not be visually intrusive.

12. I appreciate that the appellant has reduced the height and design of the mast to reduce its visual impact from an earlier refused proposal seeking prior approval¹ for a 17.5m mast. However, this height reduction would not be sufficient to overcome the harm arising from the siting and appearance of the mast.
13. The proposed installation would be visually prominent, visible in longer distance views as well as close to residential properties. This leads me to conclude that the proposal would significantly harm the character and appearance of the area.

Alternative sites

14. Paragraph 117 of the Framework sets out that applications for electronic communications development (including applications for prior approval under the GPDO) should be supported by the necessary evidence to justify the proposed development. This should include for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. Paragraph 118 of the Framework establishes that local planning authorities should not question the need for an electronic communications system.
15. The cellular network is a 'patchwork' of sites that together provide continuous coverage. In order to avoid any loss of service along the railway network, there needs to be sufficient numbers of cells in the right location overlapping with an adjacent cell to provide continuous connectivity.
16. It is not disputed that network coverage on railway lines can be poor. This is often as a consequence of the inherent characteristics of the railway line, being set in cuttings and below surrounding development. For this reason, antennas are required close to the railway line. To achieve the coverage, the pole or mast needs to be a minimum height.
17. The appellant has stated that full consideration was given to alternative sites and other existing masts in the vicinity but it was concluded there were no suitable rooftop solutions or land-based monopole options in the area to meet the technical needs of the operator. The Council has provided no commentary on these. I recognise that there are no tall buildings in the vicinity of the appeal site that would be appropriate for a rooftop installation. I also acknowledge that a Network Rail (NR) mast cannot be used due to concerns about potential interference with NR's operational requirements.
18. Likewise, I appreciate that the surrounding area is constrained by a conservation area to the south and by land outwith the settlement boundary being within the National Park where achieving an acceptable installation is generally more difficult.
19. In addition to those listed sites, Rowlands Castle Parish Council has drawn my attention to an existing 20m high telecommunications lattice tower at Rowlands Hill Farm, The Drift, Rowlands Castle. This is located less than 1km to the south of the appeal site. In 2020, prior approval² was granted for a 5m extension, thereby extending the tower to 25m. The reason for the extension was to provide coverage to the adjacent railway line

¹ Council Ref: 23468/028

² Council Ref: 56508

20. The appellant has advised in its submissions that the existing mast provides coverage to the south of Rowlands Castle and the railway line as it travels south. It explains that if the existing site provided the required level of coverage then it would not be pursuing a second site to the north.
21. I have no reason to question the need for the additional coverage required. However, the information provided in relation to the suitability of the nearby telecommunications tower in terms of its range and how it relates to existing gaps in cell coverage is very limited. It seems to me that the range of the extended telecommunications tower, given its height and proximity to the proposed mast, would be very likely to have some effect on the area of coverage the appeal proposal seeks to address. Therefore, whilst I note the appellant's submissions, in the absence of firm evidence as to the suitability or otherwise of this mast, I am not satisfied that the proposal has been justified in terms of paragraph 117 of the Framework.
22. I have been referred to an appeal decision³ in the London Borough of Havering where the Inspector found the appellant had not shown conclusively that the location of the appeal site for a similar development under Part 16 was the least environmentally damaging option. However, the proposed location was acceptable in that appeal as the Inspector found no significant harm, hence no requirement to consider alternative sites. The same scenario does not apply here.

Other Matters

23. The appellant has questioned whether the Council has followed the correct procedure in their decision-making process. This is on the basis that in its decision notice the Council finds that the proposal does not accord with 'criteria' A.3(4) of Schedule 2, Part 16, Class A of the GPDO. However, paragraph A.3(4) is a condition of the GPDO rather than a criterion. Notwithstanding this inaccuracy in the drafting, it is evident from the submissions that the Council assessed the proposed development solely on the basis of its siting and appearance, taking into account any representations received.
24. The Council officer's report states that based on the information submitted, the Council considers that the proposed monopole and associated equipment would not constitute development permitted by virtue of Schedule 2, Part 16, Class A of the GPDO because it would not meet the criteria of Schedule 2, Part 16, Class A, A.3(1)(a) and (b), A.3(2)(a)(i) - (ix), A.3(5)(c), and A.3(7) of the GPDO. I note that the Council did not refer to this in its formal decision. Notwithstanding this finding, the Council nonetheless went on to consider the siting and appearance of the proposal.
25. The appellant disputes that the information required under paragraph A.3(1)(a) and (b), A.3(2)(a)(i) - (ix), A.3(5)(c), and A.3(7) of the GPDO had not been provided. The Council did not respond to this in its submissions. Had I been minded to allow the appeal, I would have sought further information. However, given my decision to dismiss the appeal, I have not needed to pursue this matter further.

³ APP/B5480/W/20/3251086

Balance

26. The appellant has poor 4G network coverage in this area which the appeal proposal is seeking to address. In particular, the appellant is looking to improve wi-fi service to passengers using the adjacent railway network. It has been suggested that the proposal would provide additional coverage and capacity for EE users in the area as well as for the emergency services through the Emergency Services Network (ESN).
27. The Framework recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Increasing reliability and connectivity of the network is therefore a public benefit. Likewise, with increasing data requirements, increased capacity of the mobile network such as provided through improved coverage and additional antennas is a public benefit. The appeal proposal would deliver these public benefits.
28. The weight to be attributed to the benefits of the scheme have been disputed. On the basis that trains only stop for a short period at the station, the Council considers that the benefits delivered would be limited. However, this fails to recognise that the proposed cell coverage, which cumulatively with adjacent cells, would provide continuous and reliable connectivity to the mobile phone network and wi-fi for passengers on the train. The provision of network coverage in this location would be a significant public benefit for users of the railway.
29. It has been suggested that the ESN already benefits from very good coverage. However, I have no firm evidence of this. Nonetheless, improved coverage for the ESN would be a modest benefit of the scheme.
30. I appreciate that existing EE customers living in the area may consider they receive good coverage. However, the mobile phone operator has identified a gap in its coverage which it is seeking to address. However, it is clearly set out that this is primarily for users of the railway rather than the local community. Given this, any improved connectivity to locals is therefore only a modest benefit.
31. Taken together I find that the public benefits of the scheme carry moderate weight. However, I have found significant harm in terms of the siting and appearance of the development as well as insufficient evidence to justify the proposal in the location proposed. Overall, I find that the significant harms that would arise in terms of the character and appearance of the area are not outweighed by the benefits of the scheme.

Conclusion

32. For the reasons set out above, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR