
Appeal Decision

Site visit made on 10 November 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/H1705/W/22/3300598

**South of Pack Farm, off St. John's Road, East Oakley, Basingstoke
RG23 7JW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 Basingstoke & Deane Borough Council.
 - The application Ref 22/00259/TENO, dated 2 February 2022, was refused by notice dated 28 March 2022.
 - The development proposed is a 12m monopole with 2 antennae, 2 dish antennas (10m), 3 cabinets in a secured 8.5m X 4.2m compound with a new access gate and access route.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Whilst the original description of development reads 12 metres, it is clear from the plans submitted that the proposal is for 12.5 metres. This is not a substantial discrepancy, and something flagged by the appellant in their statement at the start of the appeal. Consequently, it is unlikely that the interests of the Council or other parties will have been prejudiced. For the avoidance of doubt, the appeal has been considered based on the height of the proposal identified on the plans.
3. Photomontages originally submitted by the appellant had numerical errors. However, the core function of the photomontages, in providing a visual representation of the proposal, was not undermined. Consequently, in the knowledge that the numerical details of the proposal were generally accurate elsewhere in the appellant's submission, I am satisfied that the evidence as originally presented would not give rise to prejudicial outcomes. I have not therefore found it necessary to accept the revised photomontages as late evidence or delay my decision by going back to parties for further comments.
4. New evidence on various matters was submitted by the appellant under the appeal. This has not resulted in substantial changes to the proposal, and because it was submitted at the start of the appeal, the Council and other interested parties will have had an opportunity to comment. It has been accepted on this basis.

5. 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, considering any representations received.
6. My determination of this appeal has been made on the same basis. Therefore, whilst the appellant has referred to the purported benefits, I have not expressly taken these matters into account. The benefits have effectively already been recognised by the grant of permission under Article 3(1) of the GPDO.
7. The principle of development is established by the GPDO, and the relevant provisions do not require regard be had to the development plan or the National Planning Policy Framework (the Framework). I have only had regard to the policies in the development plan and the Framework insofar as they are material considerations relevant to making a planning judgement on matters of siting and appearance.

Main Issue

8. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area. Furthermore, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed considering any suitable alternatives.

Reasons

9. The site is located within a field adjacent to a woodland strip that runs parallel with a railway line. It is appreciably detached from the settlement of East Oakley to the west and, when viewed from St John's Road, the site generally presents itself with open field in the foreground and woodland in the background.
10. It is clearly within the countryside. The degree of detachment from the urbanised context of East Oakley means that any utilitarian features, such as lampposts and other things, have little effect on its countryside setting, which altogether is of a largely unspoiled rural nature.
11. Whilst there may be instances where lampposts along St John's Road come into the same field of view¹ these would be limited and the site's detachment and position well beyond the built up area of the settlement would remain the overriding context.
12. There is a public right of way (PRoW) in the locality. It provides countryside access where users can enjoy views of open fields and woodlands. Despite being around 300 metres away, the site is likely still visible when using the PRoW adjoining Pack Lane to the north east. This is because it runs through the same field parcel with uninterrupted views².
13. Altogether, the site is within a countryside setting of a largely unspoiled rural nature, sufficiently detached from an urban context. As such, based on viewpoints from St John's Road and nearby PRoW the site has an inherent sensitivity to change.

¹ as indicated by the photomontages

² whilst accepting views would be more limited from PRoW to the south east, due to intervening trees and railway

14. The proposal's siting and appearance would deliver a utilitarian monopole structure that would extend above the existing tree canopy. Whilst not significant, this would still be noticeable to an appreciable degree, as would its position sitting forward of the woodland strip.
15. I accept the appellant is operating within the confines of technical restrictions³, but it would be readily visible and look out of place, incongruous with the prevailing rural character and appearance of the countryside location.
16. Paragraph 115 of the Framework establishes that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate. It does not appear that any such camouflage has been incorporated in this instance, to help the proposal assimilate into the woodland backdrop or wider landscape, nor is the proposal supported by full landscaping details.
17. Whilst the cabinets and other equipment are of a much lesser scale compared to the monopole, in the absence of full landscaping details⁴, I cannot be confident that they would assimilate either. Altogether, the visual impact of the proposal's siting and appearance would not be mitigated to any meaningful degree. It follows that these effects would be most pronounced in winter months.
18. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators. Consequently, I cannot consider the use of conditions to secure further landscaping details or painted finishes, or any other form of potential mitigation.
19. Overall, the siting and appearance of the proposal would harm the character and appearance of the area and would not be acceptable. The sensitivity of the site's location means that the level of harm would be significant.
20. It is not disputed that the appellant has demonstrated a lack of other available sites in the area. If there are shown to be no suitable alternative sites then the siting and appearance of the proposal needs to be assessed bearing in mind that such proposals are permitted development and have been accepted in principle.
21. In this context, the installation has to be sited somewhere within the target area and a lack of suitable alternatives could indicate that the proposal is the only option. Given the acceptance of telecommunications equipment within the GPDO this needs to be a strong factor weighing in favour of the proposal.
22. However, the particular sensitivity of the site's location derived in part from the largely unspoiled rural nature of the countryside setting would result in a level of harm to the character and appearance of the area that carries the highest level of significance. This would tip the balance against the proposal.
23. Overall, the siting and appearance of the proposal would harm the character and appearance of the area, and this would not be outweighed by the need for the installation to be sited as proposed considering any suitable alternatives.

³ including height requirements to avoid interference and ensure ICNIRP compliance, among other things

⁴ such as species type and density, including any necessary management to ensure long term effectiveness

Other Matters

24. Other appeals cited by the appellant in support of the proposal would appear to have been decided in a different urban context, some along highway corridors, and not in a comparable countryside location. They are not therefore relevant to my decision in this case.
25. It is not clear that the public enjoy rights of access over the existing informal footpath, which may be in private ownership. As such, the loss of such informal access has carried limited weight in my assessment.
26. I acknowledge that the appellant has engaged with the Council on previous applications and tried to amend the design of the proposal in an attempt to reach an agreeable solution. Be this as it may, notwithstanding the planning history of the site, I have considered the proposal on its own merits in this case.
27. The new evidence submitted by the appellant seeks to demonstrate that the siting of the proposal would not harm the root protection areas of the adjacent trees. However, this factor has not been determinative in my assessment of the main issue.
28. The appellant sets out that since the determination of the prior approval application, revisions have been made to Part 16 of the GPDO. Among other things, it is said to have increased the height allowance for new masts. It is not clear that this change directly affects the proposal in this case, but I accept the appellant's general point that there is support for such development, something that is implicit in the grant of permission under Article 3(1) of the GPDO and which has already been factored into my decision.

Conclusion

29. For the reasons given above, the appeal is dismissed.

Liam Page

INSPECTOR