



Appeal Decision

Site visit made on 28 December 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2023

Appeal Ref: APP/A0665/W/22/3306929

Land at Hodge Lane, Hartford, Northwich CW8 1RY

- 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 against the decision of Cheshire West and Chester Council.
 - The application Ref 22/01704/TEL, dated 5 May 2022, was refused by notice dated 26 August 2022.
 - The development originally proposed was the installation of a 25m lattice style telecommunications mast, antennas, ground based equipment cabinets and ancillary development within a fenced compound.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a 20m telecommunications mast, antennas, ground based equipment cabinets and ancillary development within a fenced compound at Land at Hodge Lane, Hartford, Northwich CW8 1RY in accordance with the application ref: 22/01704/TEL, dated 5 May 2022, and the plans submitted with it including 1653182_NA_77122_M004 Issue D (002 Site Location Plan); 1653182_NA_1653182_NA_77122_M004 Issue D (200 Proposed Site Plan); and 77122_M004 Issue D (250 Proposed Site Elevation).

Preliminary Matters

2. 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 GPDO), planning permission is granted for the installation, alteration or replacement of any electronic communications apparatus subject to limitations and conditions.
3. The provisions of the GPDO require the local authority to assess proposed development solely based on its siting and appearance, taking account of any representations received. My determination of this appeal has been made on the same basis.
4. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A do not require compliance with the development plan. Therefore, I have had regard to the policies of the development plan and the National Planning Policy Framework only in so far as they are factors relevant to matters of siting and appearance. In that regard, Policies STRAT 9

and DM 18 of the Cheshire West and Chester Council Local Plan Part Two (Land Allocations and Detailed Policies) are a material consideration. They seek to ensure that telecommunication installations do not have an unacceptable impact on the character and appearance of an area or harm the character of the countryside.

5. Permitted development rights for Part 16 development apply in the Green Belt. Therefore, although constituting the Council's second reason for refusal, the principle of development and whether or not the proposal represents inappropriate development in the Green Belt is not a matter for consideration within this appeal.
6. The description of development set out in the banner heading above differs from the description set out in the formal decision in paragraph 1 to reflect that the development as considered by the Council was amended during the application process to reduce the height from 25m to 20m and change the design from a lattice tower to monopole. I have used the description from the appeal form as the Council incorrectly refer to a lattice style mast in the decision notice. All parties have had the opportunity to comment on the amended plans as part of the appeal process and I do not consider that any party would be prejudiced by my acceptance of them. I have therefore determined the appeal based on the amended plans.

Main Issue

7. The main issue is the effect of the siting and appearance of the proposal 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

8. The proposed equipment and structures would be located adjacent to a public right of way (PROW) on an open area of land between Hodge Lane and a railway line elevated above the ground level of the appeal site, on an embankment. A further railway line is located on the other side of Hodge Lane and the two lines cross within a relatively short distance from the appeal site at a point where Hodge Lane crosses the railway line via a bridge. The rail tracks and associated infrastructure are dominant features that contributes to the character and appearance of the area along a significant stretch of Hodge Lane either side of the appeal site.
9. The immediate surrounds comprise grazing land with areas of woodland with individual and small groups of houses. The more densely developed settlement of Hartford is located beyond the rail bridge. Boundaries to fields and Hodge Lane consist of trees and hedges of varying heights, and these together with the railway create a relatively enclosed landscape. Vertical structures in the area comprise trees and telegraph poles, and gantries associated with the railway line. In addition, electricity pylons run along the railway line, an existing telecommunications mast, along with traffic lights, cameras mounted on poles and road signs are also visible close to the site. Therefore, whilst in a rural area the proposal would not appear as an incongruous man-made feature given the predominance of other vertical structures in the locality and the visual dominance of the railway line.

10. The top of the monopole and the headframe would be higher than the trees and vegetation near to the site and flanking the railway line. It would be visible from Hodge Lane and the PROW and seen in more distant views from sporadic housing on Hodge Lane and the edges of Hartford. The proposal would be more visible within certain views in winter, but many such views would be filtered by the intervening network of dense tree branches. The Council note that the trees are not protected and could be removed at any time, however nothing before me would suggest that such trees would be removed. Consequently, the proposal would not be prominent in appearance. Whilst the proposal would be seen in the context of the existing telecommunications equipment adjoining the railway line to the north of the site, the cumulative impact would not be significant or harmful.
11. The provision of several equipment cabinets and units within a gated compound including palisade fencing would add visual clutter at ground floor level. However, by reason of its proposed siting near to the railway embankment and the existing hedgerow planting would assist in mitigating its appearance and reduce the visual prominence to an acceptable level.
12. I therefore find that the siting and appearance of the proposal would not harm the character or appearance of the area.
13. As I have found that the siting and appearance of the proposal to be acceptable, it is not necessary for me to consider the alternative sites that have been assessed by the appellant.

Conditions

14. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

Elaine Moulton

INSPECTOR