



Appeal Decision

Site visit made on 21 March 2023

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/M3645/W/22/3293519

Ballards Lane Streetworks, Ballards Lane Grass Verge, Oxted RH8 0SL

- 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 MBNL (EE (UK) Ltd and H3G (UK) Ltd) against the decision of Tandridge District Council.
 - The application Ref 2021/1441/T, dated 4 August 2021, was refused by notice dated 8 October 2021.
 - The development proposed is the installation of a 20 metre high monopole supporting 12no. antennas and 2no. 600mm dishes, the installation of 7no. equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is dismissed.

Preliminary 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. Accordingly, as the principle of development is established by the GPDO and is not a consideration, the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise. My determination of this appeal has been made on this basis.
3. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. Nevertheless, policies of the Tandridge Local Plan Core Strategy 2008 (CS), the Tandridge Local Plan Part 2: Detailed Policies 2014 (CS) and the Limpsfield Neighbourhood Plan 2019 (NP) are material considerations as far as they relate to the issues of siting and appearance. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration.
4. The appeal site is within the setting of a listed building. The impact on the setting of the listed building will therefore need to be taken into account, applying the tests set out in paragraphs 197-201 of the Framework.
5. The appellants' view is that the proposed cabinets do not require prior approval due to their size and function. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning

Act 1990. I have determined the appeal on the basis of the scheme before me, which was the subject of the prior approval application and includes the proposed cabinets.

6. A revised drawing showing amended heights of trees near the mast was submitted with the appellants' final comments. The drawing does not alter the proposal for which approval is sought and I am therefore satisfied that it does not prejudice the interests of the other parties.
7. At the written request of the occupiers of Beresford Court, I viewed the appeal site from inside this property and its grounds.

Main Issue

8. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including on the setting of the Grade II listed Beresford Court; and if any harm were to occur, whether this is outweighed by the need for the installation to be sited as proposed, taking account of any suitable alternatives.

Reasons

9. The appeal site is a grass verge on the southern side of Westerham Road (the A25). The road is of generous width, with a cycle lane in each direction. There are grass verges of varying depths on each side of the road. The surrounding area is largely flat and whilst there is sporadic development the area is verdant and has a rural character.
10. The mast and cabinets would be set back from the edge of Westerham Road and positioned close to the trees which separate the site from Beresford Court. Whilst the trees would provide some general screening, particularly for the lower parts of the equipment, the mast would project above most of the trees and significantly above the other vertical elements in the area such as street lighting, telegraph poles and road signs.
11. I acknowledge that installations must be clear of clutter. However, it would be a prominent feature and its visual impact would be compounded by the thickness of the monopole and the antenna at the highest part. The equipment would clearly be identifiable for its functions but as a result the mast would appear as a tall, stark and incongruous feature within this rural context.
12. Beresford Court is a Grade II Listed Building located to the south of the appeal site. Due to the position, size and number of trees, there are limited viewpoints along Westerham Road when the building can be clearly seen. My site visit was at a time of year when the trees were not at their fullest and only when stood opposite the site looking towards Beresford Court or when travelling eastwards along the A25 and passing the entrance to the property could some small parts of the building be glimpsed.
13. Beresford Court is a Tudor styled brick building with hipped plain tiled roof that has ridge stacks to the left and diagonal end stacks on its projecting wings. Although the primary special interest of the building is expressed in its architecture, it also derives intrinsic historic and evidential value from being experienced in a rural setting. Other buildings in the vicinity are set apart from one another and from the listed building itself. The sparsity of other properties

and buildings near to the appeal site reinforces a sense of independence. The building's setting therefore contributes positively to its significance.

14. Despite the distance and intervening trees, the mast would be visible from the immediate grounds of the listed building and also from a number of windows on the front of the building. It would be an unduly urban and jarring feature in key views of and from the building.
15. The upper section of the monopole would appear prominent and therefore diminish the experience of being in the grounds or rooms of Beresford Court. As such, the siting and appearance of the proposal would appear visually disruptive within the setting of the listed building and so harm its significance.
16. The identified harm to the heritage asset would be visual and not cause physical harm to the listed building. Consequently, I have assessed the harm as being 'less than substantial'. Paragraph 199 of the Framework attributes great weight to any harm. The Framework also states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I return to this in my 'planning balance' below.
17. Insofar as they are a material consideration, the proposal would also be contrary to the aims of local and national planning policies, in particular the proposed monopole would conflict with Policies CSP18, CSP20 and CSP21 of the CS; Policies DP6, DP7 DP20 of the LP; and Policy LNP6 of the NP. These seek, amongst other things, for proposals, including telecommunications, to protect and conserve heritage assets and respond positively to the area's character, visual amenity and local distinctiveness.

Alternative Sites

18. As I have found that the monopole would cause harm, Paragraph 117 of the Framework requires that evidence of alternative sites is provided to justify the proposed development.
19. I have no reason to doubt the loss of the existing mast at Moorhouse Sand Pits nor the unavailability of what was meant to be a new location for the mast within the Moorhouse site. The appellants identified 5 alternative sites and interested parties have suggested two more. However, the alternative sites suggested by interested parties were said to require taller and more substantial structures and so were ruled out on that basis.
20. Of the sites initially identified by the appellants, three are said to be located too far east to provide the replacement coverage. To my mind, this casts some doubt as to the extent to which they can truly be considered alternative options to the proposed site. Of the remaining two sites, one was the original replacement at the Moorhouse site, so again was not really a viable alternative as its unavailability has led to the need for the current proposal.
21. The one remaining alternative site put forward is within the AONB. However, it is close to the appeal site and is clearly visible from it. Aside from Beresford Court, their wider contexts are therefore not dissimilar. This alternative site also has less tree cover near it than the appeal site although for operational reasons such screening is unlikely to 'hide' the equipment. It is not clear if other verges along the southern side of the A25 have been considered within the site search area.

22. Overall, based on the evidence before me, I am unconvinced that a thorough review of possible options within the search area has been conducted.

Other Matters

23. The appellants have put forward a number of matters which are said to weigh significantly in the appeal proposal's favour. In particular, they note the Framework's advice that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing. The proposal would provide 5G coverage and capacity for the area and would be shared by two telecommunications operators. Moreover, the proposal would support economic and social objectives, and deliver benefits which may include improved support for home working, enabling smart devices and services as well as supporting future advances.
24. Published Government statements supporting the drive towards advanced digital connectivity have also been pointed to by the appellants. The necessity of digital technology is further stressed by them given the significance of the Coronavirus pandemic and post pandemic recovery.
25. Other appeal decisions have been brought to my attention by the appellants. Whilst these provide helpful background, I have considered the appeal proposal on its individual merits and with regard to the specific circumstances of the site and its surrounds.

Planning Balance and Conclusion

26. Paragraph 202 of the Framework requires that where 'less than substantial harm' occurs to a heritage asset it should be weighed against the public benefits of the proposal.
27. I have assessed the siting and appearance of the proposed monopole mindful that it is permitted development and has been accepted in principle. It would maintain and enhance mobile telecommunication services in the local area and deliver appreciable public benefits in these regards. I give considerable weight to these matters in support of the proposal.
28. Conversely, the appeal site is within the setting of a listed building. Such locations are considered to be sensitive locations for telecommunication equipment and should generally be avoided unless there are no other sites available. For the reasons set out above, the assessment of alternative sites does not demonstrate to me that there would necessarily only be less desirable alternatives to the appeal site.
29. The monopole would cause harm to the character and appearance of the area, but more specifically to the setting of a listed building. I give substantial weight to this consideration, and it leads me to find against the proposal. Accordingly, I do not consider the harm caused by the siting and appearance of the proposal to be outweighed by the general support in the Framework for high quality communications.
30. For the reasons set out above, I therefore conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR