



Appeal Decision

Site visit made on 12 April 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 1 June 2023

Appeal Ref: APP/A2335/W/22/3311279

Land at Ashford Road, Lancaster, Lancashire LA1 5AB

- 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 Lancaster City Council.
 - The application Ref 22/01091/PAM, dated 26 August 2022, was refused by notice dated 19 October 2022.
 - The development proposed is the installation of 1No. 16-metre-high Alpha 7-18 telegraph pole, 1No. shrouded tr—sector antenna, 2No. 0.3m dishes, and 3No. ground based equipment cabinets and ancillary development thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in the name of Mr Neil Kelleher of EE Limited, whilst the name on the appeal form is c/o the agent, Mr Martin Brown. However, on both these forms the company is EE Limited and it is on this basis that I have determined the appeal.
3. Whilst the appellant considers that the Council has failed in their duty to assess the application appropriately, I have dealt with the appeal based on the matters and evidence before me.
4. 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 this basis.

Planning Policy

5. Part 16 of the GPDO establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
6. Nevertheless, Policies DM29 and DM41 of Lancaster District Local Plan Part Two: Review of the Development Management DPD (DPD), 2020, and Policy SP7 of the Lancaster District Local Plan Part One: Strategic Policies and Land Allocations DPD, 2020 are material considerations as they relate to issues of

siting and appearance. Likewise, Policy DM27 of the DPD has allocated the site as designated open space. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications and conserving and enhancing the historic environment.

Main Issues

7. The main issues are:

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, whether it would harm the significance of the Hibbert Terrace Non-designated heritage asset (NDHA); 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 site is a small, irregular shaped grassed area. It is located between a pavement fronting Ashford Road, an access and parking area for Hibbert Terrace, and to the east, the West Coast mainline. It is fenced from the railway line at the rear which is fronted by small trees and undergrowth. Opposite the site is what appears to be a well-tended allotment with numerous small glasshouses and sheds. Adjacent to that is the extensive Scotforth cemetery, providing a green area interspersed with graves and large trees. The cemetery also contains a stone-built former lodge.
9. The approach to the site from the north-west is along Ashford Road. Despite the modern housing development on one side of the road, and the cemetery on the other, it is bounded by hedgerows. Combined with the narrowness of the road, this maintains a semi-rural character to the area. Closer to the site, the symmetrically designed Hibbert Terrace with its four decorative gables, set at an angle to the road, is the key focal point.
10. Hibbert Terrace has been designated a non-designated heritage asset (NDHA) by the Council. Its importance is known as the site is registered and described in the County's Historic Environment Record. The row of eight single-fronted cottages were constructed in 1900 in connection with the Royal Albert Hospital, an asylum built between 1867 and 1873. The significance of the site is its association with the hospital built for initially 500, and then 600 patients drawn from seven northern counties. Additions to the site took place until the 1930s, with Hibbert Terrace having been built for staff members of the hospital.
11. Hibbert Terrace is set back from the road with a large area of undeveloped land between the terrace and Ashford Road. This is fringed by a hedgerow, small sapling trees and a wide grass verge which runs up to the small parking area for the terrace that is adjacent to the appeal site.
12. Ashford Road, which runs alongside the site, has some widely spaced, modest lamp posts along it with a few telegraph poles, one in front of the terrace, and another at the corner of the allotments adjacent to the railway line. Other than these, long views are of the two-storey housing, located the other side of the railway bridge from the site, with no prominent vertical elements visible.

13. Although the pole would be slimline and has been reduced in height to 16 metres, the minimum height to achieve coverage over the railway line, it would be the tallest structure in the vicinity, well above the height of the lamp posts, telegraph poles and Hibbert Terrace. Whilst it is considered that the trees which fringe the top of the railway bank would create a backdrop and provide screening against which the pole would be viewed, these are basically a hedgerow, and the pole would be mainly viewed against the sky in this location. In addition, the pole and the cabinets would be closer to the road, rather than to the hedgerow, and so the proposal would be seen against the backdrop of Hibbert Terrace when looking north, or the railway bridge and housing beyond it, when viewed towards the south-east.
14. Furthermore, whilst the appellant has argued that the angle of the site is such that the residents of Hibbert Terrace would not look directly at the site, No 1 Hibbert Terrace has windows on its southern elevation which would look directly towards the mast and equipment. Moreover, the site is close to both a large allotment site and an extensive cemetery. Whilst people would be coming and going from these sites on a regular basis, the allotments are in a location where people could be spending considerable periods of time. Therefore, the equipment would not only be seen by those living close to the site or passing by foot or in their vehicle.
15. Moreover, whilst the site is adjacent to the railway line, this is set in a deep cutting with a high stone road bridge across the line. Therefore, as I observed, the industrial character of the railway is not visible unless walking across the bridge, or likely viewed from a higher sided vehicle. Consequently, the pole and its equipment would not appear as part of a wider setting of railway infrastructure.
16. The proposal also includes three cabinets, with the tallest one being 1.5 metres in height, which would be set on concrete foundations. These features would be on a highly visible area of land, designated as open space, over which I saw people walking their dogs when I visited the site. Consequently, whilst the proposal would not harm the function of the open space, the pole and the cabinets would stand out in this location and would be an incongruous feature on this otherwise uncluttered and open area of land. The appellant considers that it would result in moderate visual impact and that it would be screened by trees from most visible angles. However, the long views of the site, in particular looking from the north-west towards the site, means that the pole would be highly visible, despite its nut-brown colouring.
17. For these reasons I find that the proposal would harm the character and appearance of the area. Consequently, the proposal would, as a major component of the character of the area, affect the NDHA asset at Hibbert Terrace. The harm to the significance of the heritage asset would be less than substantial, and in accordance with the Framework, a balanced judgement is required.
18. The appellant considers that the benefits of the proposal are the need to ensure it addresses the gap in EE coverage for 4G and later 5G coverage for travellers on the West Coast mainline as it passes through Lancaster, as well as users in the surrounding area. It would also form part of the new 4G Emergency Services Network to replace the existing radio service used by

emergency services. There are also no existing telecommunication installations that the operator can share to provide the coverage of the railway line.

The availability of alternatives

19. With regard to paragraph 117 of the Framework, the requirement for the development to be sited in the location and form proposed should be justified.
20. Part of the rationale for this proposal is to provide enhanced 5G coverage for travellers on the West Coast mainline, and this limits the search area. The appellant has identified four other sites that have been examined prior to the appeal site being adopted as the favourite. Two further sites have been suggested by an objector, both of which are close to the West Coast mainline, and both of which appear not to have been explored.
21. Whilst the Council has provided no opinion on the alternative sites, I note that the appellant has decided that as two of the sites are close to residential dwellings, they are likely to be contentious, while the third site has been discounted due to technical issues. Although I have no reason to dispute these findings, there is no substantive reasons given as to why the two contentious sites have been discounted, only that they are likely to receive opposition. Furthermore, the appellant has not provided any outcome of consultations with those with a likely interest in the proposed development. Despite this, the alternative sites appear to have a greater degree of tree cover and their siting would not be as open as the appeal site. I also note that other locations were considered and were eliminated, and that there are no suitable tall buildings on which the structures could be attached within the target area. However, detailed evidence for the alternative options has not been provided, or whether all appropriate options have been fully assessed.

Other Matters

22. The appellant has provided in support of the application, details of three appeal decisions for telecommunications, all of which are now of some age. That at 55-59 Oxford Street¹ allowed telecommunications equipment on a five-storey building within a conservation area in the centre of London. Whilst the decision considered that the benefits outweighed any harm to the conservation area, the context of the site, located on a building in the centre of the capital city is very different to the location of the appeal in hand. The second appeal in Winchester², was in an area containing a car park, residential areas, retail park and railway line, which again has a different character to the area currently being considered. The final appeal in Wells³ decided that the public benefits outweighed the limited harm to character and appearance, although highlights that the mast would not be an isolated or dominating feature, unlike the appeal site. Therefore, in all these cases, I cannot be certain of the degree that these decisions provide direct parallels to the appeal that I am determining, and they are, therefore, of limited weight in my assessment.

Conclusion

¹ APP/X5990/W/16/3162918

² APP/L1765/W/18/3197522

³ APP/Q3305/W/18/3206555

23. The Framework provides support for advanced, high quality and reliable communications infrastructure being essential for economic growth and social well-being.
24. I have had regard to the rationale for the use and design of the antenna on the proposal site and the alternative sites that have been put forward. However, I have found limited justification for the discounting of alternative sites, and as other sites have been suggested by local residents, I am not convinced that other options are unavailable or unsuitable.
25. Furthermore, I have identified that the proposal would harm the character and appearance of the area and that there would be less than substantial harm to the NDHA. The Framework identifies a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. However, in this case, whilst the harm to the NDHA would be moderate, I find that the overall harm to the character and appearance of the area would be significant. Therefore, the harm would outweigh the public benefits of the proposal.
26. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR