



Appeal Decision

Site visit made on 22 June 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th June 2023

Appeal Ref: APP/J1915/W/22/3312960

A119 Standalone, Land on North Road (A119), Bengeo, Hertford SG14 2PJ

- 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 against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/2136/TEL, dated 5 October 2022, was refused by notice dated 28 November 2022.
 - The development proposed is upgrade to the existing 6.3m High Lamppost. Proposed 17.50m High Phase 7 Monopole complete with wrapround cabinet to be installed on root foundation and associated ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matter

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 Local Planning Authorities to assess the proposed development solely based on its siting and appearance, taking into account any representations received. My determination of this appeal is made on the same basis.

Planning Policy

3. Part 16 of the GPDO establishes that the proposal is permitted development, and so is accepted in principle by virtue of the legislation. There is no requirement to have regard to the development plan as there would be for any development requiring express planning permission. However, I have had regard to policies of the East Hertfordshire District Plan (2018) (the LP) as material considerations. In particular, policies of the LP seek that new communications infrastructure should be sympathetically and appropriately located, that proposals should preserve or enhance the character of the area and the historic environment, preserve the setting of listed buildings, and expect that any harm to a heritage asset should be outweighed by the benefits of a proposal. The National Planning Policy Framework (2021) (the Framework) is also a material consideration, and it includes sections in respect of supporting high quality communications and heritage assets.

Main Issues

4. The main issues are:

- the effect of the siting and appearance of the proposed development upon the settings of the Grade II Listed Goldings Historic Park and Garden, and the Grade II Listed Goldings Lodge, as designated heritage assets; and,
- if any harm would occur, whether that harm would be outweighed by the need for the development to be sited as proposed taking into account any suitable alternatives.

Reasons

Heritage assets

5. The appeal site is located on a grass verge on North Road around the western boundary of the Goldings Historic Park and Garden (Goldings HPG), north of an approximately 6.3m lamppost antenna which the monopole is proposed to replace. North Road in this location is a relatively straight route lined by trees and hedgerows and some relatively low-level street furniture and structures, resulting long distance visibility along a verdant rural corridor. The site is a short distance south of Goldings Lodge (the Lodge) which forms part of the entrance to the Goldings Estate and HPG.
6. Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 (the Act) does not apply in this instance as the duty to preserve the setting of listed buildings does not apply as the proposal seeks Prior Approval. Nevertheless, appropriate consideration should still be given to heritage policies in the Framework.
7. The Goldings HPG is an extensive landscaped primarily 19th century park and pleasure grounds. Its special interest and its significance derives from the formal gardens associated with the Goldings mansion accessed from a route of drives and avenues, its mature trees and forested areas, and parklands, which down to the grassland meadows and forested areas forming the valley of the River Beane and Goldings Canal within the Goldings HPG.
8. Goldings Lodge is a well-preserved single storey brick and half-timber Tudor style building with tall chimneys under a tiled roof on the north side of the formal walled main entrance into the estate from which the formal driveway over the listed bridges and water meadows is accessed. Its special architectural and historic interest, and significance derives from its construction and architectural features, its association with the Goldings Estate and its position at the formal main entrance of the historic estate.
9. The settings of the Lodge and the HPG include the North Road corridor. It contributes to their setting and significance as a historic thoroughfare between Hertford and Waterford, with wooded rural surrounds including from mature forest and specimen plants. It provides a verdant landscaped backdrop to the HPG and the walled gently curved main entrance to the HPG where the lodge is located, leading to the superior grounds and buildings comprising the estate.
10. The appeal site contributes to the settings as a section of the verge of the historic thoroughfare providing pleasant views to and from the assets, in which part of the HPG, and the lodge, are experienced. There is clear short distance

intervisibility between the appeal site and the assets and some longer distance visibility with the HPG north and south along the North Road. Therefore, the appeal site contributes positively to the setting and significance of the HPG and the Lodge.

11. The existing lamppost and cabinets already impact upon the settings of the Lodge and HPG. The proposed new monopole would be considerably taller at 17.5m, and a wider structure in closer proximity to the entrance and the Lodge. While it would be viewed against the branches and backdrop of some mature trees on an embankment, these are natural features. The monopole would introduce a tall straight man-made structure considerably larger than existing furniture and the height of the listed lodge. It would not be fully screened, and would appear as a clearly strident, modern and somewhat dominant structure with clear close proximity intervisibility with the lodge and the HPG. It would result in significant harm to both of the assets. It would therefore, neither preserve the setting or significance of either the Goldings HPG, or Goldings Lodge. Conditions, including in respect of the colour, could not mitigate the harm.
12. Therefore, the siting and appearance of the proposed monopole would be significantly harmful to the settings of the Goldings HPG and Goldings Lodge. While not determinative in respect of a proposal for prior approval, the proposal would conflict with Policies ED3c), DS4a), HA1 and HA7 of the LP. Amongst other things, these require that proposals should be sympathetically and appropriately located, should preserve or enhance the character of the site and the area, preserve the historic environment, and particularly sustain and preserve the significance and setting of listed buildings.
13. I do not agree with the appellant that the harm would be minimal. The harm to the setting of each of the heritage assets would be of a significant level, comprising less than substantial. Paragraph 199 of the Framework attributes great weight to any harm to a heritage asset. Paragraph 202 of the Framework states that any harm to a designated heritage asset, including from development within its setting, should be weighed against any public benefits, which I go on to consider below.

Alternative sites

14. As the site is within the setting of designated heritage, it is considered a sensitive location, which should generally be avoided. The appellant is of the view the existing apparatus sets a precedent for telecommunications in this location. However, the proposed monopole is considerably larger, and more harmful to heritage assets. Therefore, even were I to accept the appellant's view that the effect of the ancillary cabinets should not be assessed, the existence of the existing equipment does not of itself justify the new monopole or demonstrate that there are not alternative less harmful sites available.
15. The appellant has undertaken a sequential approach to site selection having regard to the scope for: upgrading existing base stations; mast or site sharing; co-locating or sharing alongside existing infrastructure; installation on a building or structure, before erection of a new ground-based mast. It is of the view that options are extremely limited and the proposal advanced is the only viable one that minimises amenity issues. However, the appellant's evidence in respect of the application of the sequential approach is very brief. It is not

fully explained how this approach and the discounting of options has been applied to any area of search.

16. The appellant has not justified or demonstrated how the appeal site has been selected to be as far away as technically possible from heritage assets. The appellant has not provided a map indicating areas or the nature of any deficiencies in coverage or capacity, explained how this has informed any area of search, or provided any list and locations of any alternative sites. Therefore, the substantive evidence does not demonstrate that this proposal is the only viable option, or that there are no alternative less sensitive and more suitable sites, which could meet the appellant's needs.
17. I am informed by the appellant that they undertook a pre-application consultation, and no response was received. This is not indicative that no suitable alternative sites are available. It attracts limited weight in support of the appellant's case.
18. I acknowledge that options for siting the development are limited by technical and operational constraints. However, based upon the evidence before me, I am not satisfied that installing the monopole at the appeal site represents the only feasible means by which the appellant could provide 5G coverage in this area, and, that other more suitable alternative sites may not be reasonably available to meet the need.

Planning Balance and Conclusion

19. The height and design of the monopole might well be the minimum capable of providing the requisite coverage and functionality sought. However, the proposed development is significantly harmful to the settings of the Goldings HPG and Goldings Lodge. These are matters that attract great weight.
20. Paragraph 114 of the Framework explains that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Decisions should support the expansion of electronic communications networks, including next generation mobile technology such as 5G. There is a significant need to provide increased network capacity as data use grows, and to improve connectivity and digital inclusion would meet government objectives for digital connectivity. It has a variety of applications and economic, social, health, educational, well-being, environmental and sustainability benefits. The proposal would be compliant with some criteria of policies of the LP and the Framework in this regard.
21. I am informed there is a need for the mast to facilitate 5G coverage and improved connectivity. Notwithstanding the absence of evidence in respect of any existing capacity and coverage issues in the area, on the basis I concur with the appellant's view of the benefits of this proposal, overall, all these benefits attract significant weight in favour of the scheme.
22. Were the existing protected trees to be safeguarded sufficiently during the proposed works, this would be a neutral matter. The appellant informs me the proposal would not be harmful to the living conditions of residential occupiers and the monopole would comply with ICNIRP. The absence of harm in these regards, and the compliance with certain other criteria I have not found harm against in Policies ED3, DS4 of the LP, are neutral matters. Permitted development rights under Part 16 of the GPDO apply in the Green Belt so the

question of whether or not the proposal constitutes inappropriate development does not arise. This is also a neutral matter.

23. Overall, the public benefits of the appeal proposal would not outweigh the identified harm to the settings of Goldings HPG or Goldings Lodge. Moreover, the proposal is not supported by sufficient evidence to demonstrate why the proposal could not be more appropriately located at an alternative site. Therefore, on balance, the identified harm from the siting and appearance of the monopole, is not outweighed by the benefits of the proposal and other material considerations. For these reasons, the appeal is dismissed.

Dan Szymanski

INSPECTOR