



Appeal Decision

Site visit made on 29 August 2023

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2023

Appeal Ref: APP/M1520/W/22/3307973

Eastern Esplanade Mast, Canvey Island, Essex SS8 7DN

- 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 and Three) against the decision of Castle Point Borough Council.
 - The application Ref 22/0277/TPA, dated 7 April 2022, was refused by notice dated 19 May 2022.
 - The development proposed is the installation of 1No. 20m monopole supporting 12No. antennas and 2No. 600mm dishes with wraparound cabinet, the installation of 6No. cabinets at ground level, ancillary development thereto and removal of redundant equipment.
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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), 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 the same basis.
3. There is no requirement to have regard to the development plan as there would be for any development requiring planning permission.
4. Nevertheless, Policies EC2, EC39 and CF16 of the Castle Point Borough Council Local Plan 1998 (CPLP) are material considerations as they relate to issues of siting and appearance. In particular, they require development to be appropriate to its setting; resist development that would lead to the loss of existing leisure facilities in the Seafront Entertainment Area; and require regard to visual impact in decisions relating to telecommunications equipment. Similarly, the National Planning Policy Framework (the Framework) is also a material consideration, and this includes a section on supporting high quality communications.
5. The Council also refers to policies EC3, CM1 and DS1 of the emerging Local Plan. I understand that, since its decision on the prior approval application, the Council has withdrawn this emerging plan. I therefore give no weight to these emerging policies.

6. It has been suggested the proposed cabinets do not require prior approval. Nevertheless, they are shown on the submitted plans and included in the description of development. Therefore, I have considered them as part of the appeal scheme.

Main Issues

7. The main issues are:
- i. the effect of the siting and appearance of the proposed installation on the character and appearance of the surrounding area;
 - ii. the effect of the siting of the proposed installation on car parking provision; and
 - iii. 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

Character and appearance

8. The appeal site is within the seafront car park on the Eastern Esplanade of Canvey Island. The Eastern Esplanade faces the Thames Estuary with expansive and open views of the horizon and sky, above the sea wall. The site's inland backdrop comprises a low-rise commercial frontage of one or two storey buildings and some three storey blocks of flats. This commercial frontage and its unobstructed views of the Esplanade contribute to the character of the Seaside Entertainment Area, which is a visitor destination and on the route of a coastal footpath. The carpark is open with few trees. Vertical structures in the vicinity of the appeal site principally comprise lampposts and signage at or below the height of the buildings.
9. The proposed monopole would be significantly taller than all the surrounding buildings and both taller and wider than the lampposts and signage poles. It would be highly visible, with little to disguise or conceal it. The cabinets would also be very prominent, especially to those passing on the adjacent footway. Together, the structures would have a very dominant presence from all perspectives. The installation would stand out as an incongruous feature, contrasting markedly with the wide sky, the long, horizontal sea wall and the modest height of the buildings. This would detract significantly from the character of the Esplanade, the Seafront Entertainment Area and the nearby coastal walk.
10. I acknowledge the proposed equipment has been reduced in size and scale as far as technically possible for this location. However, I also note the need to clear the height of existing 'clutter', which for this site includes nearby three-storey buildings. Moreover, the monopole must be taller than those buildings, such that they would not help to screen it. I accept the proposed grey colour of the monopole and cabinets would be like that of existing street furniture. Yet the size of the proposed monopole would be out of scale with the street furniture in this location, so would not be seen as a normal addition to it. Further, the extent of base-level cabinets proposed would exacerbate the scheme's visual effect and incongruity in the street scene. As such, the proposed colour of the installation would do little to minimise its visual impact

given the prominence and open character of the site. The merits or otherwise of an alternative camouflage design have had no bearing on my decision given no such scheme for this site is before me.

11. For the above reasons, I conclude the siting and appearance of the proposed installation would have a significantly harmful effect on the character and appearance of the surrounding area. Insofar as they are a material consideration, the proposal would also be contrary to the aims of Policies EC2, EC39 and CF16 of the CPLP.

Car parking provision

12. The proposal would result in the loss of two car parking spaces. The Council states the proposed bollards would prevent the use of two further spaces. However, I am satisfied the marking of the spaces could be reconfigured to minimise the loss of spaces. Siting of the installation in the car park would avoid obstructing the footway alongside the road. Whilst future maintenance of the installation might involve use of part of the carpark, this would be occasional, and any resulting loss of parking spaces would be temporary. There is also another car park nearby. Overall, the proposal would have a limited and acceptable effect upon existing parking arrangements at the site.
13. Taking all this together, I consider the modest loss of car parking spaces resulting from the proposal would not be detrimental to local businesses or visitors. I therefore conclude the siting of the proposed installation would not have a harmful effect on car parking provision.

Alternative sites

14. The proposal would provide enhanced telecommunications coverage and capacity, including for 5G and within buildings; it would allow potential for future network expansion; and it would form part of the future Emergency Service Network. The proposed installation is necessary to replace coverage and capacity from a recently removed installation on the roof of the nearby Monico building. As such, there would be no change to the overall number of base stations in the area and the installation would provide for two operators and multiple technologies from a single site. This would help to meet the objective in paragraph 115 of the Framework of keeping the number of masts to a minimum, whilst providing reasonable capacity for future expansion.
15. The evidence before me includes coverage plots for each network, showing the impact of the removal of the Monico building installation and the geographical coverage that would be achieved by an installation at the appeal site. I have no reason to doubt that the scheme would deliver tangible improvements to communication networks in the area. Nevertheless, given the harm I have found to the character and appearance of the area, other options that might be available are an important consideration. In addition, paragraph 117 of the Framework requires that, for a new mast, evidence be provided that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
16. I accept the cell search area is limited to meet a very specific technical requirement and the new equipment would need to complement the existing network to promote continuous network cover. The appellant states there are no other telecommunications installations in the vicinity of the search area

which are suitable to be used to rectify the coverage deficiency. However, other than for the redundant 8-metre pole near the appeal site, there is little evidence before me with respect to which other installations have been considered and the precise reasons they would be unsuitable.

17. I understand the appellant would have sought to upgrade the former Monico building installation to include new technology for 5G and increase capacity, had the need to vacate that location not arisen. The reason given for the removal of that former installation is structural issues with the building, but there is little evidence to substantiate this. The appellant also refers to a planning application for a second-floor extension to the Monico building¹, and says this would make it difficult to retain telecommunications equipment there. However, it is not clear from the evidence before me to what extent the feasibility of incorporating the new installation into a rooftop extension on that building has been explored.
18. The supporting information refers to several other alternative options for the proposed development on existing buildings or at ground level. This includes sites suggested by the Council and by an interested party. Reasons given for discounting these options include less or insufficient space, roofs being too low and proximity to housing. Some are identified as potentially feasible but have been discounted because the replacement coverage would be less effective when compared to the appeal site. However, the evidence before me does not illustrate the coverage that could be achieved from these other locations, so I cannot be certain about this. Overall, the reasons given for discounting sites are brief and unsupported by sufficient detailed evidence to show why they would not be viable.
19. Therefore, in the absence of clear and persuasive evidence as to why alternative sites have been discounted, I am unable to establish whether more suitable sites might reasonably be available. Consequently, I am not satisfied that, based on the evidence before me, suitable alternatives have been comprehensively explored, nor that the requirements of paragraph 117 of the Framework have been fully met.

Other Matters

20. The Council has not raised concerns with the effect of the proposal on highway safety or the living conditions of neighbouring residents. On the evidence before me I see no reason to disagree. However, an absence of harm in these regards does not carry positive weight in favour of the proposal.
21. I have considered the various appeal decisions cited by the appellant. I do not have full details of all these cases, so cannot be certain whether some² were prior approval appeals or planning appeals, or of the particular circumstances of the sites involved. In some instances, the evidence before me suggests the circumstances were different from this appeal. For example, in five³ heritage assets were a consideration, which is not the case in this appeal. In three⁴, the Inspector found little or limited harm to the character and appearance of the

¹ Application reference 22/0454/OUT

² Appeal references APP/Q3305/W/18/3206555, APP/W5780/W/20/3249951 and APP/K2610/W/21/3280694

³ Appeal references APP/A1910/C/20/3256772, APP/A1910/C/20/3256773, APP/E5900/W/21/3272180, APP/R5510/W/16/3143922, APP/W5780/W/20/3249951

⁴ Appeal references APP/W5780/W/20/3249951, APP/K2610/W/21/3280694, APP/L1765/W/18/31975 (sic)

area involved. In another⁵, the proposed installation was on the roof of a building rather than at ground level. In two further cases⁶, the Inspector was satisfied there were no suitable alternative sites, which I am not. Consequently, on the evidence before me, the various appeals mentioned are not sufficiently closely related to this appeal to be comparable. In any case, I have determined this appeal on its own merits.

22. I recognise there are considerable social and economic benefits associated with the delivery of improved digital communications networks. Indeed, as set out in the Framework, advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Nevertheless, such benefits have not been taken into account in considering the matters of siting and appearance.

Conclusion

23. Although I have found the siting of the proposed installation would not have a harmful effect on car parking provision, I have found its siting and appearance would have a significantly harmful effect on the character and appearance of the surrounding area. Given suitable alternatives have not been properly explored, this harm is not outweighed by the need for the installation to be sited as proposed. As such, I find the siting and appearance of the proposed development to be unacceptable.
24. I therefore conclude the appeal should be dismissed.

C Carpenter

INSPECTOR

⁵ Appeal reference APP/N5090/W/20/3250662

⁶ Appeal references APP/G5180/W/19/3231491 and APP/J4423/W/21/3268791