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# Appeal Decision

Site visit made on 27 September 2023

**by S Leonard BA(Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 October 2023**

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**Appeal Ref: APP/B9506/W/22/3299028**

**Harry's Field, Abbotswell Road, Fordingbridge SP6 2JA**

- 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 & H3G UK LTD) against the decision of New Forest National Park Authority.
  - The application Ref 21/00725, dated 3 August 2021, was refused by notice dated 16 November 2021.
  - The development proposed is installation of a 20m high monopole with wraparound cabinet supporting 6no. antenna apertures and 2no. 600mm dishes; installation of 5no. cabinets and ancillary development thereto.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The description of development in the banner heading above is taken from the appeal form and the decision notice, since this more accurately describes the proposal than the description on the application form, in respect of the number of proposed cabinets.
3. The *National Planning Policy Framework 2023* (the Framework) supports high quality communications infrastructure and requires that local planning authorities must determine applications on planning grounds only. In accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), and subject to any relevant exception, limitation or condition specified therein, development by, or on behalf of, an electronic communications code operator for the purpose of the operator's electronic communications network, is permitted development. Therefore, matters such as the need for, or benefits of, the development, are not at issue in this appeal.
4. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) and (7) 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.
5. The provisions of Schedule 2, Part 16, Class A do not require regard be had to the development plan. I have had regard to the policies of the development

plan and the Framework only in so far as they are a material consideration relevant to matters of siting and appearance.

6. The appellant has advised that the cabinets do not require prior approval. 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 a wrap-around cabinet and 5no. freestanding cabinets positioned near the proposed monopole.

### **Main Issue**

7. The main issue is the effect of the siting and appearance of the proposal upon the character and appearance of the Western Escarpment Conservation Area (the WECA) and the landscape and scenic beauty of the New Forest National Park (NFNP), and whether any harm caused would be outweighed by the need to site the installation in the location proposed, having regard to the potential availability of alternative sites.

### **Reasons**

8. Since the site lies within the WECA, I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character and appearance. The WECA comprises an area of historic landscape and settlement, and the NPA's Conservation Area Character Appraisal (CACA) notes that the site lies within the designated Area G, *'Frogham, Blissford and scattered isolated development'*.
9. The CACA describes this character area as being crossed mainly by roads running east-west, including Abbotswell Road, having a very widely dispersed and isolated historic built development, with other 19<sup>th</sup> and 20<sup>th</sup> century development being scattered throughout, and buildings mainly facing onto the road.
10. The CACA states that the character of the landscape is formed by the pattern of field systems, and that views out of the area are quite extensive, across the open Forest Heathland to the east, and across Hyde Common to the south, with very few restrictive views due to rising ground. A specific feature of the area is noted to be that of wide verges, including along Abbotswell Road, creating a spacious character.
11. The appeal site comprises a large, grassed field located to the north side of Abbotswell Road. It is used as a temporary campsite at certain times of the year, and has an open, flat and verdant appearance. Boundaries are largely defined by hedging and post and rail fencing. Scattered trees outside the site provide a boundary backdrop in places. These include a small group adjacent to the northeast corner of the site.
12. There is sporadic built development to the north side of this part of Abbotswell Road, including dwellings, a public house and miscellaneous rural buildings. Notwithstanding this, undeveloped fields/open verdant land comprise the predominant land-use character within the site locality. As such, the appeal site makes a positive contribution to the aforesaid character and significance of this part of the WECA.

13. Moreover, the site lies within the NFNP. The NPA's *New Forest National Park Landscape Character Assessment* (2015) (the LCA) confirms that the site lies within landscape character assessment area LCA21: '*Northern Heathland and Forest*', whose key landscape characteristics include a '*wild and exposed landscape*' with '*remote feel-long views to the horizon and expansive skies*'. Key identified positive landscape attributes include '*long-range views across the open heaths and beyond*'.
14. One of the main issues identified within the LCA in respect of this character area is that of '*telecommunications masts and pylons standing out prominently in the open heathland landscape*', and one of the identified future landscape management guidelines is to '*protect undeveloped views/skylines*'.
15. The proposal would introduce a new 20m high monopole mast in a position within the field where there are no existing built vertical structures. A wrap-around cabinet and 5no. equipment cabinets would be sited in a linear arrangement close to the base of the pole. The proposal is intended to provide permanent continued 2G, 3G and 4G mobile connectivity for two mobile operators. This would replace coverage which has been lost following the removal of another base station in the local area at Ashley View Farm, Fordingbridge, and the subsequent removal of a later temporary replacement structure sited close to that site.
16. The proposal would also enable the provision of enhanced local mobile connectivity, including through new Fifth Generation (5G) technology, and would assist with the facilitation of the Emergency Services Network (ESN).
17. The proposed monopole structure and cabinets would be sited in the northeast corner of the appeal site field, close to the site boundaries. A degree of screening of the proposal would be provided by the existing boundary hedging and nearby trees and buildings. However, whilst these would screen the proposed low-height cabinets in wider views towards the proposal, they would only screen the lower part of the monopole, given the low height of the hedging and the single storey nature of the closest nearby built structures. Moreover, the proposed mast, with a maximum height of 20m, would significantly exceed the height of the nearby trees, which rise to approximately 12m above ground level.
18. Accordingly, the proposal would introduce a discordant form of development into this area, as a result of its utilitarian designed commercial nature combined with its visually intrusive design in relation to its surroundings.
19. The proposal would comprise a vertical monopole design which would be slimmer than some other alternative designs for telecommunications equipment. However, it would, nonetheless, have a notably more visually dominant presence in views from the public realm than other vertical structures within the immediately locality of the appeal site, most notably telegraph poles supporting overhead power lines.
20. This is due to a combination of its significantly greater height and pole width, and the proposed grey steel colour and material, which would result in significantly larger and more industrial and urban-appropriate structure than those of the nearby timber telegraph poles and overhead lines, which are typical of those found within rural locations, being of a functional and slimmer design and of a much lower height. In contrast to the appeal scheme, these

- existing structures sit comfortably within the countryside, and do not appear incongruous, nor unduly visually prominent within their rural setting or in comparison with the height of the surrounding built development.
21. Moreover, the head frame and antennas at the top of the supporting pole would add a distinctly bulky element to the top of the structure which would further draw the eye towards it. It would appear as a visually prominent feature within the skyline, including to users of Abbotswell Road, visitors to the adjacent public house, occupiers of the seasonal campsite on the appeal site land, and residents of nearby residential properties.
  22. As a consequence, the pleasant, open, verdant landscaped character of this part of the WECA would be detrimentally eroded by the proposed installation of a structure which would appear unduly stark and urbanising within the rural context of the appeal site and its surroundings.
  23. I have considered the appellant's suggestion that the colour and appearance of the mast could be controlled by means of a planning condition. However, the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for the development by electronic communication code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, together with providing timescales for implementation and subsequent removal of the development.
  24. As such, in this instance, the proposal is not capable of being made acceptable by means of imposing a planning condition to ensure its satisfactory colour/appearance. Moreover, the appellant has provided no demonstrative evidence, such as a Landscape Visual Impact Assessment (LVIA) or similar study, to satisfactorily demonstrate that the proposal would not have a wider unduly harmful visual landscape impact within the National Park.
  25. The appellant states that the monopole design is the structure which is most used in residential and roadside settings. However, the appeal site is not a roadside or urban residential location. I am not persuaded, on the basis of the evidence before me, that a different mast design which is more camouflaging in style, such as a tree-like mast design, would not be more appropriate given the position of the proposal some distance from the highway and within a verdant field setting close to a group of trees.
  26. In addition, on the basis of the evidence before me, I am unable to be certain that the proposal would not result in demonstrable harm to trees located close to, but outside, the appeal site, which are protected due to their height and location within the conservation area, and, due to their visibility in wider views, make a positive contribution to the prevailing verdant rural environment. Such harm could potentially arise from damage to tree roots during the construction/installation of the appeal scheme, or a need to reduce neighbouring tree canopies to ensure the required amount of unobstructed signal for the proposal.
  27. In coming to this view, I have noted that the appellant has undertaken a hand dug excavation at the site of the proposed monopole, and that it is proposed that the cabinets would be based upon shallow foundations. However, in the absence of more cogent evidence, such as a detailed arboricultural impact assessment, I am unable to be satisfied that this matter has been satisfactorily

addressed. Moreover, notwithstanding that the appellant's appeal agent has confirmed unawareness of this action, I have noted third party confirmation that neighbouring landowners have been informally approached regarding the possibility of future works to cut back off-site trees.

28. For the above reasons, I therefore conclude that the siting and appearance of the proposal would fail to preserve or enhance the character and appearance of the WECA. I find that this would amount less than substantial harm to the significance of the conservation area, which accordingly must be weighed against the public benefits of the proposal. Moreover, there would also be harm the landscape and scenic beauty of the NFNP.
29. In so far as they provide advice and are a material consideration in respect of siting and appearance, the development would conflict with Policies DP2, SP7, SP16 and SP17 of the *New Forest National Park Local Plan 2016-2036* (August 2019). These policies, amongst other things, seek to ensure that new development comprises high quality design which is appropriate and sympathetic in, inter alia, scale, appearance, form and siting, conserves and enhances existing landscape character, does not result in a gradual suburbanising impact within the National Park, and does not harm the special interest or character and appearance of a conservation area, having regard to the relevant CACA and management plan.
30. For similar reasons the proposal would not accord with Policies of the Framework which require well-designed places and the conservation and enhancement of the natural and historic environments as set out in Chapters 12, 15 and 16, and support high quality communications, subject to electronic communication equipment on new sites being sympathetically designed and camouflaged where appropriate, as set out in Chapter 10.
31. The above includes Paragraph 176 of the Framework, which confirms that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, and that the scale and extent of development within these designated areas should be limited.

### **Other Matters**

32. The appellant has referred me to a number of allowed appeals<sup>1</sup>. Full details, other than decision letters, have not been provided to me within the evidence. On the basis of the information provided, I am not persuaded that these schemes are directly comparable with the current appeal proposal, having regard to factors including their design, layout, spatial relationship to their surroundings and the specific circumstances relating to their siting in the location proposed.
33. Moreover, the balance between public benefits and harm to the character and appearance of the area is a matter for judgement, given the particular circumstances of each proposal. I have determined the current appeal on its own merits, taking into account the appeal site-specific factors.

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<sup>1</sup> APP/Q3305/W/18/3206555, APP/M5450/W/17/3180345, APP/L1765/W/18/3197522, APP/A1910/C/20/3256772, APP/A/1910/C/20/3256773, APP/E5900/W/21/3272180, APP/N5090/W/20/3250662 and APP/K2610/W/21/3280694

## Planning Balance and Conclusion

34. There would be economic and social benefits arising from proposed improvements to the existing telecommunications infrastructure in the area to cater for the roll out of 5G technology as well as accommodating existing 2G,3G and 4G technology and facilitating the rolling out of the Emergency Services Network (ESN). As such, the appeal scheme would be consistent with the Framework's recognition of the importance of high-quality communications to economic growth and social well-being.
35. I have no reason to doubt that there has been a loss of network coverage and capacity as a result of the removal of the former Ashley View Farm base station, and that the appeal scheme would deliver tangible improvements to communication networks in the area identified by the appellant, which includes a rural area interspersed with residential and commercial uses. With this in mind, I acknowledge the evidence that supports an increase in mobile data consumption and rising significance of mobile connectivity since the Covid-19 pandemic.
36. Moreover, the Framework indicates that the need for electronic communication systems should not be questioned when determining development schemes.
37. I also accept that the position of the newly proposed equipment would need to complement the existing network, so as to promote continuous network cover, and that a location as close as possible to the original site would be preferred, given the operational requirements of replacing the lost coverage. As a result, the search area that was identified for the purposes of site selection was necessarily constrained in size in order for the equipment to be located close to the area which requires coverage. In this respect, I note that the proposed monopole appears to be positioned outside the appellant's preferred search area, as indicated in its appeal statement.
38. The appellant states that a sequential approach was taken to site selection, and that, following a detailed search of the area, there is no other viable or available alternative location for the proposal, including existing masts, structures or rooftops that could accommodate the development, having regard to the identified local demand and the existing gap in existing network coverage. I have been provided with information in respect of 12 alternative locations that were considered and discounted as part of the appellant's site selection process. I have noted that the NPA has refused prior approval and planning applications<sup>2</sup> in respect of telecommunications apparatus on one of the listed sites, which the appellant is currently using for the siting of temporary replacement telecommunications apparatus.
39. I acknowledge that due to the size of the NFNP and the WECA, it would be unreasonable to expect new telecommunications apparatus to be sited outside their boundaries.
40. I also acknowledge that efforts have been made to position the monopole away from potentially sensitive receptors such as designated SSSI and SAC land, which occupy a large part of the appellant's identified search area. However, even accepting that the geographical extent of the area of search is necessarily restricted by operational constraints, I am not persuaded, on the basis of the

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<sup>2</sup> Refs 20/00683 and 22/00399

information before me, that being located close to or within these sensitive nature conservation designated areas necessarily means that a site should be discounted.

41. Moreover, the level of detail as to why each of the listed sites has been discounted is generally brief, with some being discounted as '*on balance*' having less planning merit than the appeal site, and others without providing sufficient information in respect of the '*Town Planning*' and '*radio planning*' grounds for the appellant's discounting of them.
42. Also, I have noted that the approval of a manege at the site of the original mast at Ashley View Farm has led to the appellant having to remove its apparatus from that site. However, no detailed and demonstrative evidence is before me that there is no suitable alternative land available at or close to the site of that previous mast, which could accommodate the appeal proposal and the vehicular access required to construct and service it.
43. Accordingly, I am not convinced that there are no other reasonable options within the entire search area. I am mindful that it would not be practical to consider every piece of the search area. However, I am not satisfied, on the basis of the information before me, that the appellant's consideration of alternative locations has suitably demonstrated that all reasonable options have been considered, which would avoid or substantially reduce the specific significant adverse effects that I have identified.
44. There would be benefits arising from the development outlined above. However, the siting and appearance of the monopole would result in significant harm to the character and appearance of the area, with consequent conflict with the development plan and the environmental objectives of the Framework, which attracts significant weight against the scheme. While options for siting the development are limited by technical and operational constraints, and the appellant states that alternative locations have been fully assessed, having regard to the evidence before me in respect of other sites, it is not demonstrated that other more suitable and less harmful sites for the development do not exist, and this weighs against the proposal.
45. Consequently, based upon the evidence before me, in this case, the harm from its siting and appearance would not be outweighed by the benefits of this development.
46. For the reasons set out above, I conclude that the appeal should be dismissed.

*S Leonard*

INSPECTOR