



Appeal Decision

Site visit made on 7 November 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/V5570/W/23/3322487

Vale Royal Car Park, Vale Royal, Barnsbury, London N7 9AP

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by EE Ltd against the decision of the London Borough of Islington.
 - The application Ref P2023/0660/PRA, dated 3 March 2023, was refused by notice dated 26 April 2023.
 - The development proposed is described as 'the installation of 1No. 10m Phase 5 monopole with 2No. antennas, 2No. 0.3m dishes and 3No. ground-based equipment cabinets and ancillary development thereto.'
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Decision

1. The appeal is dismissed.

Procedural 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 account of any representations received. My determination of the appeal has been made on the same basis.
3. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO, do not require regard to be had to the development plan. I have nevertheless had regard to the policies of the development plan, as well as the National Planning Policy Framework (the Framework), in so far as they are a material consideration relevant to matters of siting and appearance.
4. The Council formally adopted the Islington's Strategic and Development Management Policies (SDMP) on 28 September 2023. This now forms the statutory development plan for the area substituting the policies contained within Islington's Core Strategy (CS) and Islington's Local Plan; Development Management Policies (DMP) that were in effect at the time of the decision. The appellant had the opportunity to respond to this change via their final comments, but no response was forthcoming.
5. Likewise, in September 2023 the Government published a revised Framework. The revisions relate to national planning policy for onshore wind development, rather than anything relevant to the main issues in this appeal. Consequently, I have not sought the views of the parties.

Main Issues

6. The main issues in relation to this appeal are the effect of the siting and appearance of the proposed installation on i) the character and appearance of the area and the biodiversity of the Copenhagen Junction Site of Importance for Nature Conservation (SINC) and ii) if any harm would occur, whether that harm would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

7. The appeal site comprises an area of scrubland located to the east of a group of various commercial and industrial buildings including those at Tileyard Studios. The vegetation at the appeal site is dominated by bushes and relatively low-level shrubs, such that it has an open undeveloped character. It therefore forms a green buffer, next to the Vale Royal Car Park and to the west of the East Coast Main Line (ECML) that leads to Kings Cross Station. As such, it contributes positively to the character and appearance of the area in providing verdant relief to an otherwise heavily developed urban environment.
8. Notwithstanding that telecommunication infrastructure is installed throughout the UK to facilitate modern communication systems and lifestyles, it is important to assess the individual proposal that is before me and its context. Delivering the required service and operational needs, the proposed 10m slimline street pole mast would be relatively slender and modest in height, such that views from within Vale Royal would be limited, if possible at all.
9. The buff-coloured wall to 30-40 Vale Royal would provide a lower backdrop to the mast in public views from the railway line and private views from the residential properties to the east. However, the proposed mast would be sited some distance from the wall, be coloured green and would protrude significantly above the vegetation it would sit amongst, as well as the nearby boundary fence. As the wall provides the terminus to the adjacent commercial development, the proposed mast would appear as a prominent and utilitarian feature that is separate from such uses, and simultaneously harmful to the open and green character of the appeal site.
10. The appeal site is not located within the setting of any designated heritage assets or on Green Belt land. However, it is sited within the Copenhagen Junction SINC. The SINC is of Borough Grade 1 Importance, the highest grading at borough level. The designation, whilst not statutory, recognises its biodiversity value and the contribution it makes to the ecological network within Islington, irrespective of its dissection by the nearby railway line. Whilst the appeal site is located at the edge of the SINC, it is nonetheless part of the designated area and as such, is a sensitive location.
11. Vegetation would be cleared, and an area of concrete and paving slabs would be laid along with the installation of the proposed mast and equipment cabinets. The suggestion that the impact on the SINC would be negligible is not supported by evidence such as an appraisal that establishes the current ecological condition of the appeal site, its contribution to the wider SINC and the resultant impact of the proposal on its value. I cannot therefore be certain that the proposed development would not give rise to detrimental impacts on the SINC, including a loss of biodiversity or harm to protected species.

Need for Installation – Suitable Alternatives

12. In considering the need for the proposal, Government Policy as set out in the Framework, recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. I have had regard to the excerpts and documents supplied by the appellant which include, the National Infrastructure Commission 'Connected Future,' and Collaborating for Digital Connectivity communication from the Department for Digital, Culture, Media and Sport.
13. I recognise the need to support the expansion of electronic communications networks, including next generation mobile technology for existing users in the area, the emergency services, as well as improving the on-board wi-fi capabilities and signal for train operators and travellers using the nearby transport corridor of the ECML. I attribute moderate weight to these social and economic benefits accordingly.
14. The appeal site is said to have been selected as a position capable of providing the required coverage for the area including the ECML. However, there is no coverage map before me. An assessment of 11 other potential locations for the proposed installation is said to have been made, but the reasons given for dismissing the alternative sites are scant, referring to the location not being suitable or taller masts being required. With such limited information, the reasons for discounting the alternative sites cannot be fully scrutinised.
15. Although the appellant suggests that arranging a lease agreement for the siting of the proposal on the Vale Royal Car Park would be difficult and time consuming, no substantive evidence has been presented to indicate that the land ownership issues could not be overcome to enable this alternative site to come forward. Even if that was the case, by the appellant's own admission there are other locations where the proposal could be sited, but it is suggested that they offer no appreciable benefit over the appeal site.
16. For example, the appellant suggests that land at Cemex would be a good location and could be a viable option¹. Whilst it is suggested this site would be worse from a planning perspective, there is no compelling evidence before me that this would be the case, or that a scheme compatible with the amenity of nearby residents could not be found. Consequently, on the evidence before me, I am not satisfied that a robust review of alternatives has been undertaken, to demonstrate that less harmful sites are not suitable or available within the locality.
17. For the above reasons, the proposal would result in an adverse effect on the character and appearance and the biodiversity of the SINC, that is not outweighed by the need for the installation to be sited as proposed, and its moderate social and economic benefits. In so far as they are material considerations, the proposed mast would conflict with Policies PLAN1, ST3 and G4 of the SDMP. These policies seek amongst other things, to ensure that new development is of a high quality that contributes positively to the character of the area and protects SINC's commensurate with their status. Conflict is also found with the Framework which seeks to facilitate the growth of new telecommunications systems, whilst minimising environmental impact.

¹ Page 12 of the appellant's statement of case.

Other Matters

18. The absence of public responses or comments from High-Speed Rail 1 Safeguarding, does not indicate a lack of harm. Likewise, ICNIRP compliance and the absence of highway concerns are neutral matters weighing neither for, nor against, the proposal. Even if tall masts up to 30m can be installed on network rail land without permission that is not the proposal before me.
19. Reference is made to 5 appeal decisions that have granted prior approval for the erection of masts ranging between 15m and 20m in height, as well as the provision of antennas inside an extension to a plant room². All of the decisions relate to different local authorities such that the planning policy context in each case was different, so far as is relevant. Importantly, none of the sites were located within a SINC and in the cases of 3197522, 3268791, 3206555 and 3162918, the lack of alternative sites enabled the harm to the character and appearance of the area to be outweighed by the public benefits of the proposals. Consequently, the circumstances of the examples presented are not comparable.

Planning Balance and Conclusion

20. For the foregoing reasons, the harm arising from the siting and appearance of the proposed installation on the character and appearance of the area and biodiversity of the SINC, would not be outweighed by the need for the installation. The appellant in failing to provide substantive evidence of the alternative proposals and sites, has not justified the need for the installation to be sited as proposed and that the benefits of the scheme could not be achieved in a less harmful location. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

² APP/K3605/W/19/3243927, APP/L1765/W/18/3197522, APP/J4423/W/21/3268791, APP/Q3305/W/18/3206555 and APP/X5990/W/16/3162918.