



Appeal Decision

Site visit made on 14 November 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/J1915/W/23/3318301

Brookfield Farm Car Park, Aston End Road, Stevenage SG2 7EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 on behalf of MBNL, EE Ltd & H3G (UK) Ltd against the decision of East Hertfordshire District Council.
- The application Ref 3/22/1547/TEL, dated 19 July 2022, was refused by notice dated 13 September 2022.
- The development proposed is the installation of a 20m lattice tower, 6 no. antennas, 4 no. 600mm transmission dishes, 4 no. equipment cabinets and development ancillary thereto inside a 1.8m high palisade fence compound.

Decision

1. The appeal is allowed and approval is granted under the provisions of 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 GPDO) for the siting and appearance of 20m lattice tower, 6 no. antennas, 4 no. 600mm transmission dishes, 4 no. equipment cabinets and development ancillary thereto inside a 1.8m high palisade fence compound at Brookfield Farm Car Park, Aston End Road, Stevenage SG2 7EY in accordance with the terms of the application Ref 3/22/1547/TEL, dated 19 July 2022, and the plans submitted with it including: 1624188_EHE110_79936_SG0648_M010 002 Site Location Plan Issue E, 1624188_EHE110_79936_SG0648_M010 215 Max Configuration Site Plan Issue E and 1624188_EHE110_79936_SG0648_M010 265 Proposed Max Configuration Site Elevation Issue E.

Preliminary Matters

2. During the course of the appeal scheme the appellant has submitted a large number of amended plans and two updated International Commission on Non-Ionising Radiation Protection (ICNIRP) certificates.
3. On submission of the appeal the appellant submitted a first set of amended plans¹ which proposed an alternative scheme whereby the location of the lattice tower was altered, and the equipment cabinets moved and altered in size. The first updated ICNIRP was submitted to address the Council's second reason for refusal. However, this still contained the incorrect road name.

¹ 1624188_EHE110_79936_SG0648_M009 002 Site Location Plan Issue D5
1624188_EHE110_79936_SG0648_M009 100 Existing Site Plan Issue D5
1624188_EHE110_79936_SG0648_M009 150 Existing Site Elevation Issue D5
1624188_EHE110_79936_SG0648_M009 215 Max Configuration Site Plan Issue D5
1624188_EHE110_79936_SG0648_M009 265 Proposed Max Configuration Site Elevation Issue D5

4. The appellant has clarified at the final comments stage that the first set of amended plans were submitted incorrectly, and no changes are proposed to the scheme originally considered by the Council. As such, a second set of amended plans² were provided at this stage which seek to provide clarification and confirm that the plans originally considered by the Council were correct. A selection of photomontages³ have also been submitted. However, no changes to the scheme are proposed through these amended plans and photomontages. Accordingly, no one would be prejudiced were my decision to have had regard to these amended plans and photomontages. I have therefore done so.
5. The second updated ICNIRP certificate has clarified the address of the site and confirms that the proposal has been designed to comply with the guidelines published by the ICNIRP. In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
6. The principle of development is not subject to consideration in a prior approval application as this is established by virtue of the GPDO. As a consequence, the matter referred to by the Council within their officer report, of whether or not the proposal represents inappropriate development in the Green Belt does not arise. I have therefore not had regard to these matters in defining the main issues of this appeal.
7. The provisions of the 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 into account any representations received. My determination of this appeal has been made on the same basis.
8. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

9. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

Reasons

10. The appeal site is a car parking area associated with Brookfield Farm opposite, which contains a butchery and village store. The appeal site is raised and is accessed from Aston End Lane which is a narrow single-track lane lined with extensive hedgerows. The surrounding area consists of rolling fields bounded

² 1624188_EHE110_79936_SG0648_M010 002 Site Location Plan Issue E
1624188_EHE110_79936_SG0648_M010 100 Existing Site Plan Issue E
1624188_EHE110_79936_SG0648_M010 150 Existing Site Elevation Issue E
1624188_EHE110_79936_SG0648_M010 215 Max Configuration Site Plan Issue E
1624188_EHE110_79936_SG0648_M010 265 Proposed Max Configuration Site Elevation Issue E

³ Photomontage Viewpoint VP1: Existing View; Wireframe View; Proposed View
Photomontage Viewpoint VP2: Existing View; Wireframe View; Proposed View
Photomontage Viewpoint VP3: Existing View; Wireframe View; Proposed View

by trees and hedgerows. As such, the area has a distinctive rural and open character and appearance.

11. There is a water tower next to the car parking area which is a large feature but due to its functional design, sits unassumingly within the landscape. The proposal would be taller than the water tower, but it would be much narrower and not be as bulky, due to its lattice design. As such, while long distance views would be possible due to its elevated position, the proposal would sit well in the landscape as a functional structure, like the water tower, that would not be unusual in its setting. It would therefore not result in an unduly prominent or conspicuous feature.
12. The proposal includes equipment cabinets and palisade fencing which will surround the base of the mast. However, due to the elevated site and extensive screening from hedgerows and trees, very little would be visible from the adjacent road. Furthermore, as the proposal is not located immediately next to the water tower, a general sense of openness would remain, it would therefore not result in a cluttered appearance.
13. In reaching my view I have had regard to the photomontages provided by the appellant which show that from wide and distant views that the proposal would not be a dominant feature on the landscape.
14. I therefore conclude that the siting and appearance of the proposal would be acceptable.

Other Matters

15. I have had regard to the appeal decisions⁴ provided by the Council. However, these sites are located within more urban areas which differs from the appeal site.
16. Furthermore, with respect of these appeal decisions and comments from interested parties, the Framework seeks to minimise the number of such sites and encourages the use of existing masts and buildings for new equipment. However, in this case there is evidence that sequential approach has been undertaken and such options have been explored and discounted for specified reasons.
17. Also, as I have identified that the siting and appearance of the proposed development would be acceptable, it is unnecessary for me to consider the detailed merits of any potential alternative site or the possibility of erecting antennas on an existing building, mast or other structures.
18. Notwithstanding this, I note the appellant's reasoning within their sequential approach for discounting other sites and that they consider the lower height is a limiting factor in continuing to use the water tower. The Council have not raised any evidence to suggest that this is not the case and I have no reasons to disagree with the appellant's findings.
19. Consequently, the proposal, which would support the expansion of high-quality electronic communications networks, would accord with the Framework in respect of new telecommunications sites. This is notwithstanding that there are already masts nearby.

⁴ APP/J1915/W/22/3312678, APP/J1915/W/22/3307861 and APP/J1915/W/22/3307717

20. I have had regard to the appeal decision⁵ for the conversion of the water tower and I share the view of the Inspector that the water tower has a functional appearance. I also consider that the proposed lattice would have a similarly functional appearance which would not be unusual in a rural location. I note that the Council consider that replacement equipment on the water tower would have less of an impact and that the appellant has not demonstrated that it is not possible to continue using the antennas on the water tower. However, while this is not a specific consideration before me, the Council have not advanced any evidence to suggest that the coverage could be achieved at the reduced height of the water tower.
21. I note that interested parties have raised concern over the appearance of the proposal and suggest camouflaging or changing its colour. The appellant has not proposed this, and it is therefore not before me to consider and in any case, I have found the functional appearance to be acceptable.
22. Concern has been raised by interested parties that the proposal would be located within 3km of Bennington airfield. However, the Schedule 2, Part 16, Class A of the GPDO only requires the developer to notify, and the Council to consult the Civil Aviation Authority, Secretary of State for Defence or the operator of the civil safeguarding area if the proposal would be located within a civil safeguarding area or a defence safeguarding area. Whilst within 3km of the airfield, I have been provided with no evidence to suggest that the appeal site is within a civil safeguarding area or a defence safeguarding area and I have therefore not sought to explore this matter further.

Conditions

23. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

D Wilson

INSPECTOR

⁵ APP/J1915/W/22/3302528