



Appeal Decision

Site visit made on 6 March 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2024

Appeal Ref: APP/P3040/W/23/3328757

Land Off Buckfast Way Adjacent Eltham Road, West Bridgford, Nottingham NG2 5JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Cornerstone against the decision of Rushcliffe Borough Council.
 - The application Ref is 23/00235/GDOTEL.
 - The development originally proposed was installation of a 20-metre streetpole accommodating 6 no. antennas, the installation of 2 no. ground-based equipment cabinets, along with ancillary works.
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Decision

1. The appeal is allowed and prior 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) for installation of a 17.5m streetpole accommodating 6 no. antennas, the installation of 2 no. ground-based equipment cabinets, along with ancillary works at Land Off Buckfast Way Adjacent Eltham Road, West Bridgford, Nottingham NG2 5JU, in accordance with the application 23/00235/GDOTEL and the details submitted with it, including drawing Nos 100 Rev A (Site Location Plan); 200 Rev A (Existing Site Plan); 201 Rev B (Proposed Site Plan); 300 Rev A (Existing Site Elevation); 301 Rev B (Proposed Site Elevation).

Preliminary Matters

2. Article 3(1) and Schedule 2, Part 16, Class A of the GPDO establish the principle of telecommunications development and require the local planning authority to assess proposed development solely on the basis of its siting and appearance, taking into account any representations received. I have assessed the appeal on this basis, having regard to the development plan and National Planning Policy Framework (the Framework) as material considerations so far as they are relevant to the matters of siting and appearance.
3. A new version of the Framework was published on 19 December 2023. The parties have had the opportunity to comment on the new Framework during the normal course of the appeal. References hereafter are to the December 2023 version.
4. The application was originally made for a 20 metre (m) monopole, but its height was revised down to 17.5m during the application. The Council determined the application against the revised plans, as have I.

Main Issues

5. The main issue in this case is the effect of the siting and appearance of the proposal on the character and appearance of the area and, 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

6. The proposed monopole and associated cabinetry would be located on a short stretch of road just to the south of the corner of Buckfast Way and Eltham Road, which contains a wide grass verge to the western side. The wider surroundings are primarily residential in character, with dwellings on Eltham Road and to the south on Buckfast Way. The immediate surroundings include allotment gardens to the eastern side of the road and a water treatment works to the western side located behind a tall stand of evergreen trees. An existing 12.5m monopole and cabinets stand next to this treeline some 35m south of the appeal site, with the pole partially enveloped by the trees.
7. The proposed monopole and equipment would stand within a strip of grass between the edge of the carriageway and the footpath. This would be a more visible location than the existing monopole, being set away from the treeline and intruding into an area of intact green open space which, although not used for recreational purposes, contributes in a small but positive way to the suburban character and appearance of the area.
8. The overall height of the monopole would exceed that of other street furniture such as streetlights which stand at 5m high and, whilst slender in design, its antennae structure to the top would still add discernible bulk. The overall massing of the structures would be added to by the presence of the cabinets. I accept these are permitted development by themselves, but they are not likely to be installed without the monopole, so it is reasonable to consider their cumulative impact. These factors would add to the visibility of the overall development and give it a conspicuous presence in the street scene.
9. The approximately 12m tall tree close to the street corner would provide some screening of the development in views from the nearest dwellings to the north at the corner of Eltham Road, and there would be no clear views from dwellings further along Eltham Road. Elsewhere, in views from the south looking north along Buckfast Way, the tree would have a minor effect as a backdrop, such that the monopole would not appear completely exposed in the street scene, though its height above the tree would still render it prominent.
10. Dwellings to the south on Buckfast Way and Bisham Drive are located at a greater distance and are either orientated away from the appeal site such that residents would not have direct views of the installations, or views would be screened by other foliage within their gardens. In views from the allotments to the east, the evergreen treeline would provide some element of a backdrop, but at only 10m high, the monopole would still loom well above the treeline and form a dominant feature in views from within the allotments. There would also be views from dwellings further to the east beyond the allotments, but at distance and in some cases filtered by other trees.

11. Drawing matters together, I find that due to its height and prominent position within an area of green open space, the siting and appearance of the proposal would cause harm to the character and appearance of the area. However, taking into account the surrounding greenery and the extent of views from different directions, I find that the impact of the proposal would be confined to a relatively small area, such that the overall level of harm in this case would be moderate.
12. So far as they are relevant to the appeal as material considerations, there would be conflict with Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy (December 2014) and Policy 1 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (October 2019), which together require proposals to make a positive contribution to the public realm and sense of place, through ensuring factors such as scale, height, massing, design, layout and materials are sympathetic to the character and appearance of neighbouring buildings and the surrounding area. There would also be conflict with the Framework's expectation that new electronic communications equipment should be sympathetically designed.

Alternative Locations

13. Paragraph 121 of the Framework advises that applications should be supported by the necessary evidence to justify the proposed development. For a new mast or base station, this includes evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure.
14. I have had regard to the appellant's site selection process, and evidence in respect of the technical requirements for 5G antennas, including that the cell areas are smaller and the search area is necessarily defined by the need to fit the new cell into the existing network to address areas of poor or no coverage. I also accept that the height of the mast is dictated by operational and health requirements¹ as well as seeking to achieve the maximum coverage.
15. The appellant's evidence outlines technological constraints which prevent it from mast sharing on existing infrastructure, and its search of the target area did not identify any buildings, other structures or existing masts which offered viable options for new infrastructure, leading to the conclusion that a new, ground based installation is required. On the evidence before me, I am content that the appellant has followed the sequential approach of the Framework.
16. The appellant has considered a broad selection of potential alternative locations for the installation within and just outside the search area. Notwithstanding the Council's doubts, I am satisfied that there are valid operational reasons preventing the existing monopole being used or the pole otherwise being located closer to or within the existing treeline to the west. Several locations are reasonably discounted as they would be beyond the target area and/or operationally constrained by trees, space, underground utilities or building heights. I also agree with other locations being discounted due to being close to residential dwellings or located within allotments or along the canal towpath with consequent space and access constraints. A number of these other locations also exhibit more than one of these constraints and would be located in more visually sensitive locations compared to the appeal site.

¹ International Commission on Non-Ionizing Radiation Protection (ICNIRP) requirements

17. I am satisfied that the appellants' search has taken in the whole of the search area and some locations beyond it and is thorough in that respect. The appellant has also considered options put forward by the Council as possible alternatives. I agree that the assessments made of these other locations show constraints of various forms which indicate that none are demonstrably less harmful than the chosen site. Consequently, I am satisfied that a robust search and assessment has been undertaken, and no more suitable alternative site has been identified.
18. In reaching a view, I have noted the appellant's reference to other appeal decisions involving similar forms of development, but their relevance is limited as they relate to other locations with different site circumstances. I have therefore reached my own view on the proposal based on the site specific evidence before me.

Balance

19. Reference has been made to various social and economic benefits arising from rollout of 5G technology. The government's support in this respect is made clear in the Framework and these benefits have effectively been recognised in the grant of permitted development rights in the GPDO. As a result, they do not carry additional weight when considering matters of siting and appearance as part of the prior approval process.
20. That said, the Framework is clear that the need for improved mobile telecommunications infrastructure should not be questioned and I accept that the proposal is required to be sited somewhere in the target search area.
21. I have found that the siting and appearance of the proposal would result in moderate harm to the character and appearance of the area. However, the appellant has demonstrated that there are no more suitable alternative sites, meaning that if the appeal site is not developed, no improved mobile telecommunications infrastructure would be delivered for the area.
22. In summary, I conclude that the absence of a more suitable alternative site means that the need for the installation to be sited in the proposed location outweighs the moderate harm that would occur to the character and appearance of the area due to the siting and appearance of the proposal.

Conditions

23. The GPDO does not provide any specific authority to impose conditions when granting prior approval beyond the deemed conditions for development by electronic communications code operators set out in the GPDO, specifically those at Paragraphs A.3(9), A.3(11) and A.2(2) of Class 16, Part A.

Conclusion

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

K Savage

INSPECTOR