



Appeal Decision

Site visit made on 7 March 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/Z3635/W/23/3323671

Oaks Road Reserve, Stanwell Moor Road, Staines TW19 7JX

Grid Reference Easting: 505589, Grid Reference Northing: 174520

- 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 MBNL (EE UK Ltd and Hutchison UK Ltd) against the decision of Spelthorne Borough Council.
 - The application Ref is 23/00301/T56.
 - The development proposed is telecommunications installation: removal of an existing telecommunications installation at: P Beach Esq, Gleneagles Close, Staines, Surrey, TW19 7PD and to be replaced with a +20.0m AGL Swann column, 4No. 600Ø dishes, 5 no. unilateral cabinets, 1 no. A/C cabinet, 1 no. Furo cabinet and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address and grid reference listed in the banner heading are taken from the application form. The grid reference locates the site as shown on the approved drawings, which is accessed from Oaks Road in Stanwell rather than Stanwell Moor Road.
3. The description of the development refers to the removal of an existing telecommunications installation on a different site. However, the removal of the existing installation is not a matter that could be controlled through this Section 78 appeal. The appellant has stated in its evidence that a Notice to Quit (NTQ) has been served on the existing installation, and the Council has not disputed this. Therefore, it is reasonably likely that the existing installation would be removed. I have determined the appeal on this basis.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO 2015), 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.
5. The Council's case, and its reason for refusal, refer to the proposal as inappropriate development in the Green Belt. However, permitted development rights for Part 16 development apply in the Green Belt. Therefore, the principle

of the development is not for consideration, and the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise. For this reason, Saved Policy GB1 of the Spelthorne Borough Local Plan 2001 'Saved' Policies and Proposals as at September 2007 (March 2008) is not relevant to this appeal. However, the effect of the development on the character and appearance of the area is relevant to the assessment of the siting and appearance of the development and I have considered the appeal on this basis.

6. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issue in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Planning Policy

7. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. The Council has commenced preparation of the Spelthorne Local Plan 2022-2037, which was submitted for examination on 25 November 2022. However, the evidence indicates that the examination of the emerging plan is currently on an extended pause pending review. I have therefore considered the appeal with regard to the adopted development plan, and the Framework, insofar as they are a material consideration relevant to matters of siting and appearance.
8. Policy EN1 of the Core Strategy and Policies Development Plan Document (Adopted February 2009) (CS) is a material consideration as it relates to issues of siting and appearance. In particular, and amongst other things, Policy EN1 of the CS expects development proposals to make a positive contribution to the character of the area in which they are situated, and to avoid a significant harmful impact including through overbearing effects due to bulk and proximity or outlook. The Framework is also a material consideration and includes sections on supporting high quality telecommunications infrastructure as well as on achieving well-designed and beautiful places.

Main Issue

9. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm were to occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

10. The appeal site lies within Oaks Road Reserve, which is an area of open space located between Stanwell and the Southern Perimeter Road, which borders Heathrow Airport. The reserve contains open grassland and areas of woodland and trees and, from my observations, is used for recreational purposes. The site is close to, and directly overlooked by, two-storey dwellings on Russell Drive and Lowlands Drive. However, other than a few trees and boundary treatments, there is limited screening between the site and the nearest dwellings. The site has a distinctive open character in what is an otherwise urban setting.

11. The proposed development would introduce a telecommunications mast, along with associated antennae, dishes, and other ancillary structures including a fenced compound area, to the appeal site. The development would not impede the movement of pedestrians around the reserve. However, at 20 metres high, the proposed mast would be significantly taller than nearby properties and trees, and there would be unobstructed views of it from nearby properties and the network of informal paths within the reserve. Notwithstanding its slender design, the proposed mast would be an imposing structure which, given its height and proximity to dwellings and footpaths, would be an overly dominant feature that detracts from the open character of the site.
12. The visual impact of the proposed development could, to some extent, be reduced through its colour which could help to integrate the development with its surroundings. However, alternative colouring would not mitigate the height of the installation or its dominance in views from nearby dwellings and the open space. Therefore, potential changes to the colour of the installation would not be sufficient to overcome the harm to the open character of the area.
13. I recognise that there is a clear need for the proposed installation to be sited within the local area around the appeal site, particularly given the NTQ on a nearby existing telecommunications installation. Indeed, the need for an installation, such as that proposed, is not disputed by the Council.
14. There would also be many social and economic benefits associated with the proposed development, including improvements in mobile and digital connectivity and the facilitation of the 5G network in the local area. The development would therefore benefit residents, businesses, industry and other sectors including utilities and the emergency services. Moreover, the proposal would contribute towards the national objective to expand electronic communications networks in an area where there is an established need. Consequently, as a matter of principle, the proposal has the support of the Framework. These benefits carry significant weight in support of the proposal.
15. The appellant has identified eight potential alternative sites for the proposed development. However, whilst most of these have been reasonably discounted due to their proximity to residential properties or Sites of Special Scientific Interest, there is a lack of clear and comprehensive evidence to justify why all of the potential alternative sites are not viable.
16. In particular, site D7-GF has been discounted due to potential interference with Heathrow Airport. However, there is limited evidence before me to indicate that there are airport safeguarding concerns at this location. A mast at site D7-GF would not encroach onto the more open character of the reserve near to Russell Drive. The appellant has also not explained why the alternative site put forward by a third party at the Esso Garage on the Southern Perimeter Road is not suitable for the proposed development.
17. I am, therefore, not satisfied that it has been demonstrated these two sites are not viable alternatives.
18. Taking all of the above into account, I conclude that the siting and appearance of the proposed installation would cause harm to the character and appearance of the area. Therefore, in the absence of clear and convincing evidence that there are no preferable alternative sites and, whilst I recognise there is a pressing need to secure a site for a replacement telecommunications

installation in the local area, the benefits of the development are not sufficient to outweigh the harm I have identified in this instance.

Other Matters

19. The appeal site does not lie in an area designated for its ecological, landscape or heritage value. However, I have considered the appeal with regard to the character and appearance of the area as set out above.
20. The site lies within an area of archaeological potential due to its proximity to the historic core of Stanwell. Consequently, the development could disturb as yet unidentified heritage assets. There is limited evidence submitted with the appeal documents about the potential significance of the heritage assets. However, the Council is satisfied that any potential harm could be mitigated through archaeological works and a written scheme of investigation (WSI). However, even if the archaeological works and WSI were acceptable as mitigation and could be secured through the prior approval process, it would not overcome the harm I have identified in relation to the siting and appearance of the development.
21. No harm has been identified in respect of minerals and waste, biodiversity, highways, privacy, air quality or airport safeguarding. However, the absence of harm weighs neither for nor against the proposal.
22. I acknowledge the appellant's frustration with the lack of pre-application engagement from the Council and other stakeholders. However, these matters fall beyond the scope of this appeal.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

E Catchside

INSPECTOR