



Appeal Decision

Site visit made on 26 March 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Appeal Ref: APP/J1915/W/23/3322314

Land East of London Road, Bishop's Stortford CM23 3HE

- 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 EE Limited against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0430/TEL.
 - The development proposed is mast and associated supporting apparatus.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Schedule 2, Part 16, Class A 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.
3. The Council has referred to a number of development plan and national policies in its decision notice. However, the principle of development is established by the GPDO as set out above and its provisions do not require regard be had to the development plan. I have nonetheless had regard to the policies of the development plan, namely the East Herts District Plan (2018) and the Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and part of Thorley, along with the National Planning Policy Framework (the Framework) only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area, highway safety, and in the event that any harm is identified, whether that harm would be outweighed by the need for the installation and the lack of less harmful alternative sites.

Reasons

Character and Appearance

5. The appeal site is a small area of a larger field bounded by London Road, Pig Lane, a railway line and further undeveloped land. There are substantial trees along the frontages to London Road and Pig Lane. The proposed mast would be a 30m high lattice mast with associated equipment including two equipment cabins. They would be sited within a compound surrounded by a 1.8m high palisade fence. Access would be taken from Pig Lane and a temporary trackway installed. There are residential properties on the opposite sides of London Road and Pig Lane which are at higher ground levels than the appeal site.
6. The proposed installation would be a considerable height with a utilitarian appearance common to such structures. It would be readily visible above the tree line and taller than any of the surrounding buildings, despite the changes in ground level. The compound would be a considerable size given the width of the base of the mast and it being necessary for it to incorporate the equipment cabins. This would be visible at ground level through gaps in the tree cover and more so were the shrub growth to be removed or maintained differently. Despite this, it would not be physically prominent when viewed from London Road and Pig Lane due to its proposed siting behind the tree belt. Few residential properties face directly onto the site and have windows which would overlook the mast. The tree belt would continue to provide screening. Longer distance views from the countryside would be read in the wider context of the settlement that sits around the site.
7. The plans do not specify any colour treatment for the proposed mast and show a cabinet to be colour treated grey, while the written statement states they would be fir green. A grey mast would not benefit to the same extent from screening by the surrounding tree cover. A grey cabinet and fencing would be more likely to be obtrusive in any gaps in the landscaping around the site. The proposed temporary trackway to access the site would be of a considerable length. However, there is not specific detail before me of the nature of this track. Nor is there any mechanism to ensure that it would only be temporary during the construction period and any subsequent upgrades. There is no provision in the GPDO which would allow me to impose conditions to address either of these issues, both of which would cause harm to the appearance of the surrounding area.
8. Prior to this application, prior approval was granted¹ for a 25m lattice mast at Haslemere Industrial Estate. This is a very short distance from the appeal site. The appellant has identified land ownership constraints as why that mast has not been sited. Notwithstanding condition 1 on the decision notice, the GPDO allows five years for this approval to be implemented. There is no evidence before me to show that the land ownership constraints would be insurmountable in this timeframe. Consequently, were I to allow this appeal, both could be implemented. Given the proximity of the sites, there would be occasions where both masts would be visible. Two substantial masts with the associated equipment in such close proximity would create adverse visual clutter. There is no mechanism before me to prevent the first prior approval from being implemented.
9. The Council has acknowledged that the proposal would utilise an existing gated access point and would not require additional access measures. It may be that this access point is not ideal given its proximity to the single carriageway

¹ 3/22/0819/TEL issued 8 June 2022

bridge and the traffic signals, and the visibility from this access, however that is not a reason to prevent use of an existing access point. In any event, the operation of the traffic signals and narrow width of the bridge serve to limit speeds in the area, and traffic generated by the development would be of a very low level. The siting of the proposal would therefore not have an adverse effect on highway safety.

10. Paragraph 121 of the Framework states that applications should be 'supported by the necessary evidence to justify the proposed development' including as regards potential alternatives. The appellant has followed a sequential approach to site selection within this constrained cell search area and in light of the existing site to be decommissioned. A number of alternative sites have been considered and subsequently discounted. This has been evidenced through a map of the cell search area and a brief commentary on why each of the alternative sites is unsuitable. Of the sites that were not discounted on technical grounds, I have no reason to disagree with the reasons for which the other sites were discounted. However, this would not outweigh the harms I have identified which would arise from the siting and appearance of the proposed mast.

Other Matters

11. Reference has been made to a number of social and economic benefits. These have not been taken into account in considering the matters of siting and appearance as the benefits of telecommunications are implicit in the grant of permission by the GPDO. The need for the development is not in question.
12. Given the prescriptive nature of the time limit to the prior approval process, it is understandable why the Council ensured it had issued its decision within the prescribed time limit. I have been directed to a number of other appeal decisions by the appellant. However, each case must be considered on its individual merits.

Conclusion

13. For the reasons given above, I conclude the appeal should be dismissed.

J Downs

INSPECTOR