



Appeal Decision

Site visit made on 16 December 2024

by **G Robbie BA(Hons) BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th January 2025

Appeal Ref: APP/J1915/W/24/3343349

Land West of Hallingbury Road, Bishop's Stortford, Hertfordshire CM22 7QN

Easting (x): 549735 Northing (y): 219240

- 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 3/24/0137/TEL.
 - The development proposed is 1 x 25m high lattice tower, 3 x Commscope antenna mounted on proposed ring head frame, 1 x 0.6m transmission dish fixed to proposed dish pole above headframe, 1 x 0.6m transmission dish fixed to proposed tower leg offset brackets, 1 x GPS node fixed to proposed antenna pole, 1 x AIRO cabinet (600x600x2100), 1 x MK5B Link AC cabinet (1200x600x1600) and other ancillary equipment and underground cabling.
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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 1 x 25m high lattice tower, 3 x Commscope antenna mounted on proposed ring head frame, 1 x 0.6m transmission dish fixed to proposed dish pole above headframe, 1 x 0.6m transmission dish fixed to proposed tower leg offset brackets, 1 x GPS node fixed to proposed antenna pole, 1 x AIRO cabinet (600x600x2100), 1 x MK5B Link AC cabinet (1200x600x1600) and other ancillary equipment and underground cabling at Land West of Hallingbury Road, Bishop's Stortford, Hertfordshire CM22 7QN (Easting (x): 549735 - Northing (y): 219240) in accordance with the application 3/24/0137/TEL and the plans and details submitted with it.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. Other than changes to paragraph numbering, and subject to the matters set out as background below, I am satisfied that the content of the sections relevant to the matter before me are not materially different from that of the previous version of the Framework. I have determined the appeal accordingly.

Background and Main Issue

3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter, the Order), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require such proposals to be assessed on the basis of the proposal's siting and appearance, taking into account any representations received. I have determined the appeal on the same basis.

4. Policies of the development plan, in this case the East Herts District Plan¹, and the Framework are referred to in the stated reasons for refusal. Thus, policies DES3 and DES4 set out the Council's approach to design and the landscape and are relevant to matters of siting and appearance. Policy ED3 sets out the approach to communications infrastructure and refers, in part, to the siting and appearance of such infrastructure, whilst Policy GBR1 sets out the approach to planning applications within the Green Belt. However, the principle of development is established by the provisions of the Order as set out within Part 16, Class A and as such its provisions do not require me to have regard to the development plan. Nevertheless, I have had regard to those provisions as referred to in the refusal reasons, along with the Framework, only insofar as they are material considerations to the matters of siting and appearance.
5. Having regard to the above therefore, 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 would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

6. The appeal site lies at the edge of a larger field bound to the south by Pig Lane and to the east by the A1060 Hallingbury Road, albeit at some distance from both. An extensive area of woodland, referred to in the Council's officer report as 'Blooms Plantation' which leads down towards the River Stort, lies immediately to the north of the proposal's site enclosure. Although ground levels within the field rise from both Pig Lane and Hallingbury Road, and the site itself is elevated above the levels of both roads, the nature of the roadside verges, hedgerows and tree belts along them are such that direct views of the appeal site are heavily, if not entirely, obscured and intercepted.
7. Where there are more pronounced gaps in these features, views towards the appeal site open up but these views would be experienced largely fleetingly. At an overall height of in the region of 25 metres, the appellant's '*Tree Survey & Recommendations*'² (Tree Survey) indicates that the installation's antennae and headframe would project to a height above that of the nearest trees and the woodland canopy more generally. Views, albeit taken fleetingly, from lower ground levels around the site would exacerbate the degree to which the top-most part of the proposed installation would be seen above the woodland backdrop.
8. However, whilst the lattice mast would be somewhat utilitarian in its appearance, the Council accept that the nature of the screening around the field boundaries, and from the woodland behind, would be sufficient so as to ensure that the tower and ground-based equipment would not be prominent in the surrounding area. I agree. Ground based elements of the proposal would benefit from partial screening in longer views from Pig Lane and Hallingbury Road as a consequence of the prevailing landform and ground levels, whilst vegetation around field boundaries and roadside verges would render views largely fleeting and largely obscured. Indeed, even without foliage, the skeletal framework of the hedgerows and trees are such that uninterrupted views of either ground-based elements of the proposal, or the mast itself, would be rare and, where such views and vantage points are possible, the specified colour finish of ground-based equipment would

¹ October 2018

² Trinkle & Pearce Landscapes Ltd, Site ID-1713609 Dated April 2024

assist in its amelioration into the darker lower canopy and under-structure of the woodland behind.

9. Although the colour finish of the tower is not proposed to follow that of the ground-based equipment and structures, a galvanised finish to the tower would not necessarily result in material harm to the character or appearance of the surrounding area arising from the installation's siting or appearance. The greater height of the tower would be such that its top-most part would be likely to be seen above the background of the woodland where a darker, green colour finish would not be appropriate and may be counter-productive in terms of its siting and appearance.
10. For these reasons, I am satisfied that the appeal scheme has been sited and designed in such a way as to avoid material harm to the character or appearance of the appeal site or the surrounding area. As a consequence the siting and appearance of the appeal scheme is acceptable.
11. Whilst the Council are right to afford the tree, hedgerow and vegetation cover around the site considerable weight I do not necessarily share the concern regarding the absence, at the application stage, of an Arboricultural Report. The vegetation, trees and hedgerows on the Pig Lane and Hallingbury Road field boundaries are a considerable distance from the appeal site and I am satisfied that they would not be directly affected by the works. The earlier absence of a tree survey is not fatal to the proposal in this respect.
12. Although the site compound would be close to the field boundary and the woodland beyond, any effect upon trees would in all reasonable likelihood be limited to those closest to the site compound itself. As the value of the woodland in relation to the appeal scheme is essentially in providing a dense and dark backdrop to the tower and ground-based equipment, even if it were the case that the appeal scheme would compromise the integrity or longer-term health and viability of the limited number of trees closest to it, the wider woodland area beyond those few trees would be subsist.
13. Nevertheless, a Tree Survey and tree protection plan³ were submitted with the appeal. The survey identifies four trees of particular note closest to the site compound. Although the Council's concerns remain regarding the depth of assessment set out in the Tree Survey, I am satisfied that the appellant has demonstrated to a sufficient degree that the trees closest to the site would be unlikely to be directly affected. Appropriate precautions could be employed to minimise the risk of harm to those trees closest, whilst I am satisfied that the value of the wider area of woodland, in terms of providing a comprehensive backdrop to the proposal, would be unharmed.

Other Matters

14. I have noted the Council's concerns regarding the appellant's consideration of alternative sites and the further presence of a previously approved scheme where the appellant has cited obstacles to its implementation. However, as I find the siting and appearance of the proposed installation to be acceptable, it is not necessary for me to consider any further the matter of, or availability of, alternative sites.

³ Tree Protection Plan Revision R1

15. Although not expressly cited as inappropriate development in Green Belt terms in the Council's refusal reasons, the second of these does refer to the site's Green Belt location. However, as the principle of the development is not for consideration in relation to prior approval appeals, the question of whether or not the proposal represents inappropriate development in the Green Belt does not arise. Consideration of the effect of the proposal's siting and appearance on the character and appearance of the surrounding countryside area is set out in the assessment of the main issue.

Conditions

16. Any permission granted for the development described in full in the banner heading above under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2). These specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the local planning authority received the application, and must 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.
17. As the Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it I have not imposed any further conditions.

Conclusion

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

G Robbie

INSPECTOR