



Appeal Decision

Site visit made on 11 May 2021

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Appeal Ref: APP/E2205/W/20/3261389 A252 A28, Chilham CT4 8DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Telefonica UK Limited against the decision of Ashford Borough Council.
 - The application Ref 20/00305/AS, dated 28 February 2020, was refused by notice dated 20 April 2020.
 - The development proposed is the erection of a 20m high monopole supporting 3no. antennas and 2no. 0.3mm dishes, the installation of 2no. equipment cabinets and 1no. meter cabinet on new base and the installation of ancillary equipment.
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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) for the siting and appearance of the erection of a 20m high monopole supporting 3no. antennas and 2no. 0.3mm dishes, the installation of 2no. equipment cabinets and 1no. meter cabinet on new base and the installation of ancillary equipment at land at A252 A28, Chilham CT4 8DU in accordance with the terms of the application Ref 20/00305/AS, dated 28 February 2020, and the plans submitted with it.

Procedural Matter

2. 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.

Planning Policy

3. The principle of development is established by the GPDO 2015 and 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 (Framework) only in so far 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 having particular regard to the setting of the Grade II listed Bagham Farmhouse and Grade II listed Barn.

Reasons

5. Part 16 of the Order establishes that the proposal is permitted development and therefore it is accepted in principle by virtue of the legislation. Furthermore, there is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, Policies SP1, SP6 and ENV13 of the Ashford Borough Council Local Plan to 2030 are material considerations as they relate to issues of siting and appearance. In particular, they seek to secure high quality design and to avoid development that would cause loss or substantial harm to the significance of heritage assets. Similarly, the National Planning Policy Framework is also a material consideration and this includes a section on supporting high quality communications.
6. The proposal would be located on a wide highway verge, close to a number of relatively tall trees. In the immediate and wider area there is various highway infrastructure including traffic signage, a crossing, and telegraph poles. The proposal would include a monopole which would support antennas and additional microwave dishes. Two equipment cabinets would be located next to the pole along with a meter cabinet. The monopole would be in a relatively prominent position in relation to the road; visible when approaching the site from either direction. However, it would be seen in the context of the other infrastructure in the area and, from some vantage points, to the back drop of the trees. I have no evidence that the trees are likely to be removed in the near future or that their longevity is otherwise at risk.
7. Further along the A28, on the opposite side of the road, is the Bagham Farmhouse and associated listed barn. Both are Grade II listed. They sit back from the highway, separated by a low stone wall and mature gardens. The setting of the listed buildings are experienced intimately through the entrance and garden area. The wider setting is one of the highway and adjacent more modern residential development adjacent to the listed buildings. The A28 is a highly trafficked road, which appears subject to a number of infrastructure elements along it, including areas of markings on the road itself.
8. The monopole would be taller than the other surrounding infrastructure, but, the context it would be seen in, along with the slim nature of the monopole and its proposed dark green colour, would be such that it would not be harmful to the intimate setting or the wider setting of the listed buildings. The existing tree cover adjacent to the appeal site, combined with the surrounding infrastructure would all serve to limit the views of the monopole in relation to the listed buildings, which come into view on the right as one rounds the corner of the A28. The pole would be more prominent when approaching with it on the left, however the listed buildings are a substantial distance from the appeal site, and it would not form a material aspect of the setting of the heritage asset.

9. Consequently, the proposed development would cause no material harm to the character and appearance of its surroundings more generally and does not amount to any irreversible physical harm to or loss of significance of a designated heritage asset. As such, I am satisfied that the appeal development would not be harmful to the designated heritage assets.

Other Matters

10. There is evidence that the proposal would result in significant improvements to the local 4G coverage and that the technical limitations are such that any search area is necessarily relatively restricted. The National Planning Policy Framework (the Framework) is clear that advanced, high quality, telecommunications are essential for sustainable economic growth. It also sets out that competition between operators should not be prevented, nor should the need for the telecommunications system be questioned.
11. I have regard to the alternative sites suggested. However, there is no substantive evidence that these sites would provide the necessary coverage or that the land owners would give permission for the development to be on their land. Overall, I am satisfied that the appellant has made sufficient attempts to find an alternative site that would perhaps have a lesser impact than the proposed, to no avail.
12. Concerns have been raised about the potential effects on health. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances the Framework advises that health safeguards are not something that a decision maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIP guidelines would not be complied with or that a departure from the Framework would be justified.

Conclusion and Conditions

13. The Framework indicates that advanced, high quality and reliable communications infrastructure is essential for economic growth and social wellbeing. The expansion of electronic communications networks should generally be supported. Equipment on new sites should be sympathetically designed and camouflaged where appropriate. I have found that the proposal would not result in harm to the setting of heritage assets or the area more generally and accordingly the appeal should succeed.
14. 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. 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.
15. For the reasons given, and having regard to the representations received, the appeal is allowed, and prior approval given.

J Ayres INSPECTOR