



Appeal Decision

Site visit made on 19 January 2024

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 4 March 2024

Appeal Ref: APP/V2255/W/23/3322929

Queens Hall Car Park, Forbes Road, Faversham, Kent ME13 8PL

- 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 MBNL (EE and H3G) against the decision of Swale Borough Council.
 - The application Ref 22/504412/TNOT56, dated 9 September 2022, was refused by notice dated 25 November 2022.
 - The development proposed is the installation of a 20m monopole supporting 12no. antenna apertures and 2no. 600mm dishes along with 1no. wraparound cabinet, 6no. equipment cabinets, all within a 1m high hooped perimeter barrier and ancillary development thereto.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is no dispute between the main parties that the proposal complies with the limitations and restrictions of Paragraph A.1 of Class A of Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO). Based on the evidence before me, I have no reason to consider differently.
3. The provisions of the GPDO 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 based on its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
4. The relevant provisions of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan cited in the Council's reasons for refusal, only in so far as they are a material consideration relevant to the matters of siting and appearance.
5. The Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. There are no material changes relevant to the substance of this appeal and I am satisfied that no one will be prejudiced by the changes to the national policy context. All references to the Framework in this decision relate to the revised document.

Appeal Decision APP/V2255/W/23/3322929

Main Issues

6. The main issues are:
- Whether the siting and appearance of the proposed installation would preserve or enhance the character or appearance of the Faversham Conservation Area (CA) and its effect on the setting and significance of listed buildings and a non-designated heritage asset, and
 - If any harm is identified whether it would be outweighed by the need for the installation to be sited as proposed, taking into account any suitable alternatives.

Reasons

Conservation Area and listed buildings

7. The appeal site is located within the CA, and close to the centre of the town where there is a mix of mostly residential and commercial uses. It is my statutory duty under s72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act), to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
8. The CA encompasses a relatively extensive area of the town. Its character, appearance and significance appear to be derived from the relationship between the tightly knit rows of mostly traditional period style buildings which enclose the streets in the area. Although of different designs and appearances, the buildings are mostly of comparable heights across 2 or 3 storeys, giving a broad consistency of roof heights. This relationship provides an attractively fine-grained appearance to the largely historic streets of the CA, and it reflects the extensive history of the town.
9. The proposed installation would be considerably taller and thicker than the lighting columns in the area, particularly the upper part with the irregular shaped antennas. Whilst I have no reason to doubt that it would be no taller than necessary to meet the requirements of the telecommunications network, it would nonetheless rise well above the surrounding buildings and the few trees that are growing nearby. As such, it would have a considerable presence in a variety of views from within the CA, including from the car park, Forbes Road and Station Road around its junction with Preston Street.
10. Although the area around Forbes Road is described in the CA Character Appraisal ("the CACA") as somewhat disjointed in appearance, the height, and utilitarian appearance of the proposal would contrast markedly with the traditional appearances, materials and broadly consistent heights of the 2 and 3 storey buildings in the area.
11. In views from Station Road the proposal would be seen in certain views as projecting well above the buildings lining Preston Street, which are generally rows of attractive 2 and 3 storey traditional buildings in the historic street scene. In this context, the utilitarian and overly modern appearance of the installation would be seen as a visually intrusive feature, inconsistent with the prevailing character and appearance of the area.
12. For these reasons the proposed installation would be seen as a visually jarring and incongruous feature within the CA, that would result in a significant level of harm to its character, appearance and significance. For these reasons the

Appeal Decision APP/V2255/W/23/3322929

proposal would fail to preserve or enhance the character or appearance of the CA, as a designated heritage asset.

13. Although not part of a listed building, the appeal site lies just beyond the rear boundary of the Grade II listed building of Shepherd House (Number 56). This building dates from the early nineteenth century and is constructed from red brick with a formal pattern of windows set around a recessed panelled doorway to its façade. Along with Numbers 53 through to 59 Preston Street, it forms part of a consecutive row of Grade II listed buildings that front onto the west side of Preston Street.
14. Number 55 (Chase House) is a large red brick building with double fronted curved bays to its façade. Number 53 (Delbridge House) is a substantial red brick building with a formal symmetrical pattern of window openings. Numbers 57-58 is a large nineteenth century building with a formal pattern of sash windows. Number 59 (Limes Hotel) is a public house with a shop front and largely symmetrical pattern of sash windows. The north part of the Railway Hotel, which is a Grade II listed building with sash windows and small attic dormers, is situated on the opposite side of Preston Street.
15. The significance of those listed buildings lies primarily in their aesthetic value and age as examples of historic buildings of traditional architecture. This is best appreciated in street level views from Preston Street and Station Road, where their attractive facades form part of the historic street scene. They also have historic association with the development of the area and would contribute to an understanding of the evolution of the town. The settings of these listed buildings comprise the historic street scape around them and the car park to the rear where there is a general absence of buildings or other structures projecting above the outlines of their roofs. Setting therefore makes a positive contribution to their significance as designated heritage assets.
16. The evidence shows that the proposed installation would be visible at street level from Station Road, where the upper part of the mast and antennas would be seen projecting above the outlines of the roofs of Chase House and Shepherd House, and through the narrow gap between them. There would also be intervisibility with Delbridge House. Seen in the context of the traditional architectural appearances of Chase House, Shepherd House and Delbridge House in the historic street scene, the height and utilitarian appearance of the appeal proposal would appear as an incongruously modern feature that would intrude harmfully into the settings of these buildings. As such, it would significantly harm their settings and significance as designated heritage assets.
17. Intervisibility between the appeal proposal and the Limes Hotel, Number 57-58 and the north part of the Railway Hotel in views from Station Road or Preston Street would be unlikely given their respective heights and positions.
18. There would be varying degrees of intervisibility between the proposed installation and the rear elevations of Chase House, Shepherd House, Delbridge House, Numbers 57-58 and the Limes Hotel in views from the car park, which comprises part of their settings. However, the rear elevations of these buildings in the row are less visually coherent than their facades. Seen in these views the harm that would result from the scale and utilitarian appearance of the proposal to the settings of the listed buildings and their significance, would be comparatively modest.

Appeal Decision APP/V2255/W/23/3322929

19. The contrast between the modern utilitarian appearance of the proposed installation and the traditional architecture of Queens Hall, which is a non-designated heritage asset (NDHA) owing to its distinctive architectural appearance, would be somewhat jarring. However, this would be limited to particular views from Forbes Road and given the scale of Queens Hall, it would result in a modest degree of harm to its significance.
20. The proposed equipment cabinets would also be of utilitarian appearances. However, they would be relatively low height structures set close to the nearby tall boundary wall. Viewed against the backdrop of this tall wall they would not be of a scale or appearance that would be dominant or harmful to the settings of the heritage assets referred to above. A lack of harm in this respect would not outweigh the harm I have identified above.
21. I therefore conclude that the siting and appearance of the proposed installation would have an unacceptably harmful visual impact, which would fail to preserve or enhance the character or appearance of the CA, and would harm the settings and significance of the Grade II listed Chase House, Shepherd House, Delbridge House, Numbers 57-58 Preston Street and the Limes Hotel. There would also be harm to the significance of Queens Hall as a NDHA.
22. To the extent that they are a material consideration, the proposed installation would conflict with Policies CP4, CP8, DM14, DM32 and DM33 of The Swale Borough Local Plan – Bearing Fruits 2031 (Adopted July 2017), insofar as they require a proposal to be appropriate to its surroundings, accord with national planning policy in respect of heritage matters, and sustain and enhance the significance of designated and non-designated heritage assets and their settings.
23. The level of harm would, in terms of the approach set out in Framework Paragraph 205, be 'less than substantial'. Nevertheless, this is a matter of considerable importance and great weight should be given to an asset's conservation under Framework Paragraph 205. Paragraph 208 of the Framework requires me to weigh this harm against the public benefits of the proposal. I will return to this in the planning balance.

Alternative sites

24. Framework Paragraph 119 is clear that the number of masts and the sites for them should be kept to a minimum, and that using existing masts, buildings and structures should be encouraged. Paragraph 121.c) of the Framework states that applications for prior approval for new masts should be supported by evidence that an applicant has explored the possibility of erecting antennas on existing buildings, masts or other structures.
25. Several alternative sites for the proposed installation were assessed by the appellant within a search area described as indicative and not exclusive. However, their locations are not pinpointed on a map and the reasons for discounting them are generally expressed in relatively broad terms. A number of those sites are said to be too far north within the search area and installations at some sites are described as needing to be significantly taller than the appeal proposal, albeit this is not quantified. Even if I were to accept the discounting of sites considered too far north, there is limited evidence before me to convincingly substantiate the extent to which other discounted sites would cause the visual harm suggested by the appellant. Whilst the

Appeal Decision APP/V2255/W/23/3322929

search area is entirely within the CA, this does not necessarily mean that any site within it would cause a comparable level of harm to the CA as the appeal proposal.

26. For example, alternative sites 2 and 10 appear to relate to the area around the car sales plot to the north of the railway line and fronting Forbes Road. This area is characterised by open land and what appeared to be a number of commercial uses. The CACA describes development in the vicinity of Forbes Road as somewhat disjointed in appearance. Parts of this area are also some distance from Delbridge House, and the car sales plot is seen against the backdrop of the elevated railway embankment and rows of tall trees. Given my conclusions on the first main issue, I have limited evidence to substantiate the appellant's conclusion that the appeal proposal would be less visually intrusive than this alternative location.
27. Mast sharing with the existing installation at the Station Car Park, which the evidence suggests is 15 metres tall, was discounted as being too far south outside of the search area to provide the required replacement coverage. However, this mast is relatively close to the boundary of the appellant's search area, which is described as indicative and not exclusive. Although the appeal proposal would be shared by EE and H3G, the Framework encourages mast sharing and limiting the need for new masts. In this context, there is limited evidence before me to substantiate how much larger the existing installation in the Station Car Park would need to be to facilitate mast sharing, or the visual impact that such an upgrade would have on the area.
28. Siting the proposed installation in an alternative part of the car park further away from the listed buildings referred to above, and potentially not visible with them in views from Preston Street, has been discounted. However, there is limited evidence before me that this would adversely affect vehicles circulating within the car park. The proposed installation would appear to necessitate alterations to the car park layout and the removal of 3 parking spaces in any case. The relatively few trees around the eastern edge of the car park are not likely to substantially screen the upper part of the proposal's mast and antennas.
29. On the evidence before me, I am not satisfied that potential alternative sites for the proposed installation have been comprehensively assessed. The recently dismissed appeal for an installation at the Central Car Park¹ in the town does not alter my conclusions on the appellant's assessment of alternative sites and I am not familiar with the evidence placed before the Inspector in that case. As such I am unconvinced that the sites assessed by the appellant would not represent available and realistic alternatives, such that the appeal site, and the harm it would cause, represents the least harmful option available in terms of achieving satisfactory network coverage and capacity.
30. In allowing an electronic communications mast in Sheffield² an Inspector stated that even if alternative sites were available, there is no requirement within the Framework or the GPDO for developers to select the best feasible siting where a proposed site is considered to be acceptable. However, in that appeal, the proposed installation did not affect heritage assets and unlike the appeal proposal before me it was not found to cause unacceptable visual harm. As

¹ APP/V2255/W/22/3295885

² APP/J4423/W/17/3188962

Appeal Decision APP/V2255/W/23/3322929

such, that appeal decision is not comparable to the circumstances in the case before me and it does not alter my conclusions.

Other Matters

31. The appeal decisions allowing electronic communications masts in Wells³, Harrow-on-the-Hill⁴, Uxbridge⁵, Winchester⁶, Sheffield⁷, and Woodseaves⁸, relate to different sites. They would have been determined on their individual merits based on site specific considerations and judgements, and the evidence that was placed before the respective Inspectors. As such they have limited relevance to my considerations in this appeal and they do not alter my conclusions on the main issues. The Woodseaves appeal predates the Framework and GPDO by several years and therefore it was not determined under the same policy and guidance as in the case before me.
32. Some broad similarities can be drawn between the case before me and the appeal that I dismissed for a telecommunications installation under the GPDO at Lower Road, Faversham⁹. However, both relate to different sites which I have assessed on their individual site specific circumstances and effects, and on the evidence presented by the respective appellants. For these reasons the Lower Road appeal has limited relevance to my considerations in this appeal.

Planning Balance

33. Framework Paragraph 118 supports expanding electronic communication networks as part of providing the advanced, high quality and reliable communications infrastructure essential for economic growth and social well-being. The public benefit is the continuation of 3G and 4G network services in an area where an existing installation has been decommissioned and is currently the subject of an installation erected under emergency provisions, together with the addition of 5G network capability. Furthermore, EE has been awarded a contract by the Home Office to provide a new network for emergency services, which the proposal could support. These public benefits weigh strongly in favour of the proposed installation.
34. I have been referred to several publications and statements, including by Government Ministers, supporting mobile digital communications infrastructure. Whilst the Framework requires planning decisions to support the expansion of electronic communication networks as part of the Government's continued commitment to improving digital connectivity in England, it also states in Paragraph 195 that heritage assets should be conserved in a manner appropriate to their significance and that great weight should be given to their conservation.
35. For the reasons given, the appeal proposal would cause less than substantial harm to the significance of several heritage assets, including designated heritage assets and a NDHA. I have given great weight to the conservation of those designated heritage assets as required by paragraph 205 of the Framework. In weighing the harm to those heritage assets against the public

³ APP/Q3305/W/18/3206555

⁴ APP/M5450/W/17/3180345

⁵ APP/R5510/W/21/3269903

⁶ APP/L1765/W/18/3197522

⁷ APP/J4423/W/21/3268791

⁸ APP/Y3425/A/02/1084110

⁹ APP/V2255/W/22/3311086

Appeal Decision APP/V2255/W/23/3322929

benefits of the proposal as required by Framework Paragraph 208, and in taking account of my conclusions on the appellant's assessment of alternative sites, I find that the proposal's strong social and economic public benefits would not be sufficient to outweigh the harm to the significance of the heritage assets.

Conclusion

36. For these reasons, I conclude that the appeal proposal would fail to preserve the character or appearance of the CA, contrary to the Act, and it would harm the settings and significance of the Grade II listed buildings and the NDHA referred to above. The harm to the significance of those heritage assets would not be outweighed by the public benefits of the appeal proposal, taking account of the alternative sites assessed by the appellant. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR