

Appeal Decision

Site visit made on 13 May 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

Appeal Ref: APP/N5090/W/20/3246015

Pursley Road, Mill Hill, Barnet, London NW7 2BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by MBNL EE(UK) Limited and H3G (UK) Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/3415/FUL, dated 17 June 2019, was refused by notice dated 13 August 2019.
 - The development proposed is the installation of a 20m monopole, 12 no. antenna apertures, equipment cabinets, the removal of the existing 15m monopole, 3 no. antennas, redundant equipment cabinets and development ancillary thereto.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - The character and appearance of the area, including the adjacent Green Belt.
 - Pedestrian safety and convenience.

Reasons

Character and Appearance

3. The appeal site consists of part of the footpath at the side of Pursley Road that abuts the Chase Lodge Playing Fields. The playing fields are enclosed by a fence that also demarks the edge of the Green Belt. A bus stop with a post and shelter is located adjacent to the appeal site, with the entrance to a pedestrian and cycle route at the opposite side of the bus stop that passes around the abovementioned playing fields and leads towards Barnet Copthall Leisure Centre. Residential properties are located at the opposite side of Pursley Road.
4. The part of the appeal site that is closest to the adjacent bus stop currently hosts a 15 metre high monopole and 4 ground level cabinets. The existing monopole is of similar height to the two trees that it sits between and, as such, the existing structure is partially screened in views along Pursley Road. However, the absence of built form along one side of Pursley Road around the appeal site means that the existing structures, particularly the monopole, are visible from several vantage points including the abovementioned pedestrian and cycle route.

5. The proposed 20 metre high monopole and associated ground level cabinets are proposed to facilitate the provision of 3G, 4G and 5G telecommunication services and would replace the existing mast and cabinets, albeit in a position further from the adjacent bus stop. The structures would be sited close to the fence at the boundary of the adjacent playing fields, with the monopole being positioned in a gap between two trees that are lower in height than the proposed monopole.
6. The top part of the structure would be visible from a wide area, including the abovementioned pedestrian and cycle route and playing fields and from several vantage points along Pursley Road. The height of the structure would be emphasised by its thickness and the exposed antennae at a high level which would attract attention and make the highest part of the structure particularly prominent. This would result in the monopole having an imposing appearance that would lead to it being a dominating feature of the locality. The choice of colour of the monopole would do little to mitigate its visual effect and therefore, notwithstanding the appellant's suggestion that the colour of the monopole could be addressed through the imposition of a condition, this does not affect my assessment of its visual effect.
7. The proposed group of cabinets would represent a sprawling conglomeration of structures that would be prominent within the street. As a result of their number, size and spread along the footpath, the cabinets would represent a significant bulk of equipment housing that would detract from the streetscene and represent a substantial imposition in views towards the playing fields from Pursley Road. Therefore, when considered as a whole, the development would have a significant adverse effect on the character and appearance of the locality.
8. Although the proposed structures would replace existing structures, the monopole would be in a different position, significantly taller, of greater width and of busier appearance, particularly at a high level. Furthermore, the equipment cabinets would be greater in number and spread further along the footpath. Whilst there would be less variation to the existing character and appearance of the locality than if electronic communication infrastructure had not previously been present, as the visual effect of the proposed development would not be comparable to the existing situation, the presence of existing equipment would not significantly lessen the effect of the proposed development on the character and appearance of the wider area.
9. Although the appellant has suggested that a monopole of the same height and the equipment cabinets could be installed under the terms of the GPDO¹, the appellant also acknowledges that the width of the proposed monopole exceeds the limitations contained within the GPDO. Therefore, as this does not provide a fallback position that would enable the development proposed, this does not alter my assessment of the effect of the development.
10. The focus of both the National Planning Policy Framework (The Framework) and policy DM15 of the Barnet's Local Plan (Development Management Policies) Development Plan Document (BDMP), adopted September 2012, is on the appropriateness of development within the Green Belt and the effect on its openness. Therefore, as the proposed structures would be outside the Green Belt, I do not find that the proposal would be contrary to the content of the

¹ The Town and Country Planning (General Permitted Development) Order 2015 (as amended).

abovementioned policy and The Framework. However, this does not diminish the importance of achieving high quality design.

11. For these reasons, although the proposal would not be contrary to Policy DM15 of the BDMP which addresses the Green Belt, the proposal would have an unacceptable effect on the character and appearance of the area. The development would, therefore, conflict with policies DM01 and DM18 of the BDMP which combine to require, amongst other things, that development is of the highest quality and creates vibrant attractive streets, whilst also ensuring that telecommunications equipment does not have a significant adverse effect on the space in which they are located.
12. The proposal would also fail to accord with paragraphs 124 and 127 of The Framework which combine to require that all development is of good design, adds to the overall quality of the area, is visually attractive and is sympathetic to local character. Furthermore, as the proposed structures would be located in a different position to the existing structures, I consider the development to constitute a new site in the context of Paragraph 113 of The Framework. In that context, for the reasons set out above, the development would not comply with the requirement for equipment to be sympathetically designed and camouflaged where appropriate.
13. Whilst the Council's reason for refusal refers to policy 7.8 of the London Plan (2016), as this relates to heritage assets and archaeology, I do not find it to be relevant to this issue.

Pedestrian Safety and Convenience

14. The appeal site forms part of the footpath of Pursley Road and is located within close proximity to the abovementioned bus stop and pedestrian and cycle route that leads towards several leisure and community facilities. As such, it is likely that the footpath at and around the appeal site would be well used and represent an important part of the local pedestrian network.
15. Although the proposed structures would be positioned close to the fence at the boundary of the adjacent playing fields, their positioning would narrow part of the footpath, with the effect of this being exaggerated as a result of the presence of a lamp post within the vicinity of the proposed structures. Whereas the existing cabinets form part of a group of street furniture along with the bus stop, the positioning of the proposed structures away from the bus stop would cause it to be a separate obstruction within the footpath. The overall increase of the number of structures would also reduce the space available for pedestrians. Therefore, the proposal would cause some deterioration of the pedestrian environment in comparison to the existing situation.
16. However, the resultant footpath width would remain adequate for users to pass without undue conflict or inconvenience. In this regard, the space between the cabinets and the lamp post would be comparable to the gap between the adjacent bus stop post and the associated shelter. Furthermore, the resultant footpath would be no narrower than the footpath further along Pursley Road. As such, whilst the proposal would result in the footpath being narrower for a greater length than the existing situation, the effect on the ability of people to use the footpath would not be such that users would experience a reduction in safety or be dissuaded from walking.

17. For this reason, the proposal would have an acceptable effect in terms of pedestrian safety and convenience. The development would, therefore, accord with Policy CS9 of the Barnet's Local Plan (Core Strategy) Development Plan Document (BCS), adopted September 2012, and Policy DM17 of the BDMP which, in combination and amongst other things, seek to make cycling and walking more attractive and ensure that the safety of all road users is taken into account when considering development proposals.

Other Considerations

18. Paragraph 112 of The Framework advises that advanced, high-quality and reliable communication infrastructure is essential for economic growth and social well-being and that the expansion of electronic communication networks, including next generation mobile technology, should be supported. Furthermore, in accordance with paragraph 80 of The Framework, I afford significant weight to the economic and social benefits of providing and enhancing electronic communication infrastructure that have been identified by the appellant including the enabling of working from home and the associated reduction of travel, the facilitation of 'smart' services and facilities and the preparedness for possible future technological advances. In this regard, I also acknowledge the support for the proposal that the appellant has drawn from policies 4.10 and 4.11 of the LP, policy CS8 of the BCS and other guidance².
19. The proposed structures would be shared by 2 operators which would reduce the proliferation of electronic communication equipment in comparison to a situation where operators seek separate installations. I also appreciate that the equipment is necessary to achieve the required standard of network coverage in the area and I have no reason to question the appellant's evidence that the monopole and cabinets proposed are the minimum necessary and would comply with INCIRP standards.
20. However, the Framework advises that the use of existing masts, buildings and other structures for new electronic communications capability should be encouraged and that, in the case of a new mast, evidence should be provided to demonstrate that the possibility of erecting antennas on existing buildings, masts or structures has been explored. In this case, although existing structures would be replaced as part of the development, the proposal would not involve the use of the existing structure and the development, therefore, represents the erection of a new mast.
21. The appellant's Supplementary Information document provides contrasting information as to whether alternative sites were considered. However, the appellant has subsequently stated that a sequential approach has been taken and that the absence of other tall buildings or masts that could host 2 additional operators means that there are no alternatives. In any event, whilst the appellant has stated that there are no tall buildings within a kilometre of the site, it has not been clarified as to whether this search area aligns with the functional and locational requirements of the operators. Moreover, limited justification for the discounting of other sites has been provided with minimal evidence provided to support assertions that other options are unavailable or unsuitable.

² Letter from Department for Digital, Culture, Media and Sport (DDCMS) and Ministry of Housing Communities and Local Government (Dated 7 March 2019) and Connected Growth by DDCMS.

22. In addition, the appellant has provided details of the appearance of building mounted equipment and suggests that the provision of equipment on buildings would be more visually intrusive than the proposed mast. However, that view does not align with The Framework which promotes the use of existing buildings and the evidence before me does not demonstrate that the examples shown would be the only means of providing the required equipment on a building.
23. Accordingly, compelling evidence has not been provided to demonstrate that no other structures are available to host the required equipment. As such, whilst paragraph 82 of The Framework states that the locational requirements of different sectors should be recognised, it has not been demonstrated that undertaking the development at this site is the only way to achieve the identified economic and social benefits. Therefore, I give minimal weight to the evidence that has been provided in respect of the lack of other available sites.
24. I acknowledge that the main parties agree that no harm would be caused in respect of the effect on the adjacent trees and the living conditions of neighbouring residents. Furthermore, I appreciate that the proposal would accord with ICNIRP standards and that the appellant sought to engage with the local planning authority prior to the submission of the application. However, these are conventional expectations of development of this type and have a neutral effect on my considerations.

Planning Balance and Conclusion

25. For the reasons set out above, the proposed monopole and the equipment cabinets would unacceptably harm the character and appearance of the area. In this regard the development would conflict with policies DM01 and DM18 of the BDMP which seek to ensure that development represents high quality design and that telecommunication developments do not have a significant adverse effect on the space in which they are located. This is consistent with the objectives of the Framework.
26. I have found no harm in some respects and have had regard to the benefits of the proposal that have been identified by the appellant, including the economic and social benefits of upgraded electronic communication infrastructure. I also acknowledge the support for such developments that is contained within The Framework. However, in this case, I do not consider that the benefits would outweigh the harm caused by the visual effect of the development on the character and appearance of the area and the associated conflict with the development plan.
27. For these reasons, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR