



Appeal Decision

Site visit made on 28 July 2020

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2020

Appeal Ref: APP/Q1445/W/20/3249294

Land opposite Courcels, Arundel Street, Brighton BN2 5UB

- 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 Ltd and H3G Ltd) against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/01628, dated 31 May 2019, was refused by notice dated 23 September 2019.
 - The development proposed is the installation of a 20m monopole, 12 no. antennas, equipment cabinets, and 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 allowed and planning permission is granted for the installation of a 20m monopole, 12 no. antennas, equipment cabinets, and the removal of the existing 15m monopole, 3 no. antennas, redundant equipment cabinets and development ancillary thereto at land opposite Courcels, Arundel Street, Brighton BN2 5UB in accordance with the terms of application BH2019/01628, dated 31 May 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002 - Site Location Plan Rev D (other than for the 1:50,000 OS extract), 100 - Existing Site Plan Rev C, 150 - Existing Elevation Rev C, 215 - Max Configuration Plan Rev C, 265 - Max Configuration Elevation Rev C.

Procedural Matters

2. The application form gives no site address other than a map reference Easting 533458: Northing 103356. For ease of reference I have used the address given on the Council's decision notice.
3. The site location plan (002 - Site Location Plan Rev D) includes an extract of a 1:50,000 Ordnance Survey map that places the site in Eastbourne. This is clearly wrong and I have disregarded it. The remaining 1:1250 site location plan and photograph appear to be correct.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The site is located on a grass verge along the southern side of Marine Drive, a main road that runs along Brighton seafront. It is currently occupied by a 14.7m monopole and four equipment cabinets. The verge is surrounded on both sides by pedestrian and cycle paths. The immediate environment is dominated by highway structures including the road, footpaths, streetlights, highway signs, a central reservation with barrier and to the west a traffic light controlled pedestrian crossing. Marine Drive is elevated above the beach at this point, with open views along the road and out to sea.
6. The wider area includes buildings fronting Marine Drive. Courcels, a twentieth century block of flats stands opposite the site and is separated from it by the road and a forecourt. Further away is the grade II listed French Convalescent Home, now apartments, set back by its gardens. Further away still is the grade I listed Arundel House, which forms part of Kemptown, an early nineteenth century estate laid out in the Regency style. Kemptown, its gardens and seafront all form part of the Kemptown Conservation Area. The significance of these heritage assets lies in their scale, planned layout, elaborate detailing and historic importance to the development of Brighton.
7. The replacement mast at 20m would be 5.3m higher than the existing monopole, a little thicker and with a more prominent antenna array. Although it would be taller than the existing monopole, and visible in views along Marine Drive, in my view it would not appear obtrusive or unduly prominent. The single monopole design, with vertically arrayed antennas would maintain a slim profile, such that it would not draw the eye or advertise its presence unduly. Within the existing highway dominated environment it would be perceived as part of the functional structures found there.
8. The existing four equipment cabinets would be replaced by seven cabinets arranged to either side of the mast. These would be of a similar size to the existing cabinets and confined to the same piece of grass verge. As with the mast, I consider these would be perceived as part of the functional structures commonly found within highways and therefore not perceived as being out of place. They would sit below the level of the adjacent concrete parapet wall and would not therefore be silhouetted against the sea or sky.
9. The site does not lie within the curtilage of any listed building or within the Kemptown Conservation Area. It would be visible from land within the Conservation Area and the listed buildings mentioned above but seen at some distance and amongst other structures, such as the streetlights and other highway impedimenta. The installation would not interrupt key views of the listed buildings or their settings as it would be of a slim profile, positioned some distance away and located on the opposite side of Marine Drive from them. Its visual impact on the setting of these heritage assets would therefore be minor.
10. I conclude that the proposed development would not have a harmful effect on the character or appearance of the area, and would not therefore conflict with saved policies HE3, HE6, QD23 and QD24 of the Brighton & Hove Local Plan

2005 or policies CP13 and CP15 of the Brighton & Hove City Plan Part One 2016, which seek to minimise the impact of telecommunications apparatus, and protect heritage assets and their settings.

11. The development would lead to less than substantial harm to the significance of the designated heritage assets. This limited harm is outweighed by the benefits that would accrue to improved wireless communications in range of the installation and the wider telecommunications networks.

Other Matters

12. A considerable amount of concern has been raised in representations about the potential effects on human 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 National Planning Policy Framework advises that health safeguards are not something which a decision-maker should determine¹. No evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified. For those reasons, I consider that potential effect on health, or fears about health, are not a determining issue in this case.
13. Several other issues have been raised in representations including concern about highway safety, change to outlook, and proximity to residential properties. The Council has not objected to the development on any of these grounds, and I see no reason to do so either. The effect of the development on property values is not a material planning issue, and I have not taken it into account in reaching my decision.
14. I note that two of the equipment cabinets are referred to as 'Huawei' cabinets. Following the recent decision by the Government to ban the use of Huawei equipment from 5G networks, the operators will need to review the manufacture of equipment for the installation. However, only the equipment cabinet forms part of the application, not the equipment within it, and therefore I consider the reference to Huawei is not material to my decision.

Conditions

15. I have considered the two conditions suggested by the Council in the event of the appeal being allowed against the advice in paragraph 55 of the National Planning Policy Framework. I consider they both meet the tests set out in that document.
16. In addition to the standard time limit condition, I have imposed a condition listing the approved plans in the interests of certainty. I have made minor alterations to the wording for clarity.

Conclusion

17. I conclude that the appeal is allowed.

Guy Davies

INSPECTOR

¹ National Planning Policy Framework, Section 10: supporting high quality communications.