



Appeal Decision

Site visit made on 1 September 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for

Decision date: 25th September 2020

Appeal Ref: APP/N5090/W/20/3250737

Land at Barnet and Southgate College, Wood Street, Barnet EN5 4AZ

- 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 Cornerstone and Telefonica UK Ltd against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/5864/PNT, dated 29 October 2019, was refused by notice dated 10 December 2019.
 - The development proposed is installation of a 17.5m high monopole supporting 6 no antenna, 1 no dish, 3 no cabinets within 2.10m high palisade fenced compound together with ancillary development.
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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 the siting and appearance of a 17.5m high monopole supporting 6 no antenna, 1 no dish, 3 no cabinets within 2.10m high palisade fenced compound together with ancillary development at Land at Barnet and Southgate College, Wood Street, Barnet EN5 4AZ in accordance with the terms of the application 19/5864/PNT made on 29 October 2019 and the details submitted with it.

Background and Main Issues

2. The application was made pursuant to the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Class A permits development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, including the installation, alteration or replacement of any electronic communications apparatus; and development ancillary to radio equipment housing.
3. For development to be permitted by Class A, it must satisfy limitations set out at paragraph A.1, and conditions at paragraph A.2. These conditions include a requirement in certain cases for developers to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development, with provisions relevant to this procedure outlined at paragraph A.3.

4. The Council refused the application, asserting that the monopole would exceed 15m in height and would be contrary to Part 16 A.1 of the GPDO. At appeal stage, the Council also raised concerns that the siting and appearance of the development would be unacceptable causing harm to the character and visual amenity of the area. The appellants anticipated this scenario in making the appeal, and were additionally able to respond to the Council's evidence, including with regard to the character and visual amenity of the area. I am therefore satisfied that no prejudice would occur as a result of me taking this matter into account within my decision.
5. With regard to this background and the evidence before me, the main issues are:
 - i) whether or not the proposal would satisfy limitations on height specified within paragraph A.1 of Part 16, Class A of the GPDO; and, if it would,
 - ii) the effect of the proposal on the character and appearance of the area.

Reasons

Limitations on the Height of the Development

6. The proposal includes a 17.5m high monopole. The Council's decision notice states that the height would not comply with Part 16 A.1(a) of the GPDO because it would exceed 15m, although there is no Part 16 A.1(a) of the current version of the GPDO. There is a restriction on development exceeding 15m in height at Part 16 A.1(1)(a) of the current version of the GPDO, but this applies only to apparatus 'other than a mast'. Mast in this context is defined at paragraph A.4 as a radio mast or tower, and I have no reason from the evidence provided to doubt that the monopole would meet this definition.
7. Following amendments to the GPDO which came into force on 24 November 2016, height limitations relevant to the installation of masts are specified at Part 16 A.1(1)(c). This states that development is not permitted if the mast, including any antenna, would exceed a height of 25m above ground level on unprotected land; or 20m above ground level on article 2(3) land or land which is on a highway. The appeal site is not on a highway and is on unprotected land, and the monopole would not exceed a height of 25m above ground level.
8. I therefore conclude on this main issue that the proposal would satisfy the relevant limitation at paragraph A.1(1)(c) of Part 16, Class A of the GPDO. As the development includes the installation of a mast, it follows that determination as to whether prior approval as to the siting and appearance of the development is required in accordance with provisions at condition at A.2(3) and paragraph A.3.

Character and Appearance

9. The appeal relates to part of an area of land accessed from Elm Road which is between the rear boundaries of gardens associated with two-storey buildings located on Orchard Road and an area of surface level car parking associated with Barnet and Southgate College. Adjacent, there is a recreation ground which I note is partly within the Wood Street Conservation Area (CA). For the most part, the land comprises fairly low level vegetation, although there are mature trees between the site and the recreation ground, as well as some further trees to the boundaries of the buildings on Orchard Road.

10. In addition to the installation of a 17.5m monopole which would support 6 antennas and 1 dish antenna, the proposal includes 3 ground level cabinets. These would be set within a compound enclosed by 2.1m high palisade fencing.
11. The monopole would be of far greater height than lighting columns within the college car park, and would also be higher than the nearby buildings on Orchard Road and on Fitzjohn Road which back on to Elm Road. It would be fairly prominent as a result, with the visual impact further reinforced by the thickness of the monopole and the protruding antenna at the highest part.
12. The development would be largely screened from the High Street by the college and other nearby buildings. Mature trees around the site and to the rear of Fitzjohn Road would also provide a degree of screening or a backdrop to the development from some perspectives. However, this would not be complete and the surrounding open land means that there would be clear views of the monopole as well as the ground level cabinets and fencing. These views would include from Elm Road and the college car park and building, as well as from some buildings on Orchard Road and Fitzjohn Road. The upper part of the monopole would also be apparent above the height of the nearby trees from the adjacent recreation ground, as well as from the rear of those properties on Orchard Road and on Fitzjohn Road where there are trees on their boundaries.
13. In vantage points, including from the rear of buildings on Orchard Road, the development would be seen against the large college building. While not contiguous with the site which is closer to the buildings on Orchard Road, this backdrop of existing built form would still lessen the prominence and visual impact of the development. Noting also the separation from nearby buildings, the development would not be harmful to the living conditions of neighbouring occupiers. However, whether or not the surrounding land is used, it provides an open setting around the site which is further supplemented by the adjacent recreation ground.
14. Seen against these more open backdrops, the monopole would be evident standing relatively isolated against the skyline where it would project above the tree canopies. Together with its height and scale, this would cause the monopole to appear somewhat incongruous and intrusive in its surroundings.
15. Interested parties have also referred to longer-range views of the monopole from Dollis Valley and provided photograph vistas. I was unable to recreate the views at my visit as details were not provided of where the photographs were taken from. However, as the existing college building is visible in the photographs, there would be potential for views of the monopole in front of the college from this perspective.
16. Nevertheless, the monopole would be seen against the college building and would not project higher than the St John the Baptist Church which is a listed building. As a result, the church tower would remain the dominant feature in views and together with the scale of the monopole and the distance from which it would be seen, the effect on the skyline and the setting of the listed building would in my view be fairly limited as a result. Given also the intervening built form, the development would not be readily visible from St John the Baptist Church. These factors together mean that I am satisfied that the significance of the listed building would be preserved. The siting close to the adjacent large college building and the separation and screening provided by vegetation mean

that I also find the effect of the development on the setting of the nearby CA would be limited and I consider its significance would be preserved as a result.

17. Notwithstanding that I have not found harm to heritage assets or to longer-range views of the skyline, for the reasons given above I conclude on this main issue that the siting and the appearance of the development would be visually intrusive and it would cause harm to the character and appearance of the wider area. The harm would be relatively localised given the available opportunities for views of the development and the surrounding context, but the proposal would nevertheless conflict with Policies DM01 and DM18 of Barnet's Local Plan Development Management Policies 2012 (DMP) insofar as they are relevant to the prior approval matters of the siting and appearance of the development. These policies include requirements that development preserves or enhances local character; respects the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets; and that equipment does not have a significant adverse effect on the space in which it is located.

Other Considerations

18. The National Planning Policy Framework (the Framework) advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It also outlines that the expansion of electronic communications networks, including next generation mobile technology, should be supported.
19. The appellants state that the development is necessary to replace telecommunications equipment serving the area which is subject to a requirement for removal from the existing site of Barnet Police Station. The proposal would ensure no loss of mobile data connectivity, and would additionally bring next generation technology to the locality.
20. Information on existing and predicted mobile telecommunications coverage in the vicinity of the appeal site has been provided by the appellants in the form of coverage plots which show 3G connections since these are more susceptible to blocking and attenuation than 2G, 4G or 5G coverage. The plots indicate that on removal of the existing installation at Barnet Police Station, coverage would be severely reduced over a significant geographic area including the High Street and surrounding residential streets. As a consequence, there would be a high likelihood of dropped or missed calls and an inability to maintain stable mobile internet connections. The appellants also advise that the coverage plots do not account for network capacity, or for the effect of features such as trees and buildings which would attenuate 3G transmissions. Actual coverage and service levels are therefore likely to be less than suggested by the predictions.
21. I do not doubt that such restricted coverage and capacity in the built-up area would be inadequate to meet the needs of local businesses and the community. It would also be contrary to the emphasis on extending and future-proofing digital connectivity in order to ensure that communities can benefit from economic growth and greater social inclusion within the Framework as well as additional Government guidance highlighted by the appellants¹.
22. The evidence before me indicates however that the appeal proposal would ensure that adequate 3G coverage can be sustained in this area. This is a

¹ Letter from Department for Digital, Culture, Media and Sport (DDCMS) and Ministry of Housing Communities and Local Government (MHCLG) (dated 7 March 2019) and Connected Growth: Manual for Places by DDCMS.

public benefit and matter to which I give significant weight. Moreover, the proposal would also facilitate 5G coverage. This would support economic and social objectives, and deliver benefits which may include improved support for home working, enabling 'smart' devices and services as well as supporting future advances.

23. The Framework outlines that the number of electronic communications and radio masts should be kept to a minimum and encourages use of existing masts, buildings and other structures. On new sites, it seeks equipment that would be sympathetically designed and camouflaged where appropriate. There are similar requirements within DMP Policy DM18 which also requires that technologies to miniaturise and camouflage apparatus have been explored.
24. Apart from the existing equipment on the Police Station site which is subject to removal, no other existing mobile telecommunication sites in the area are identified. The potential for sharing of existing masts is therefore restricted. However, the appeal site would be shared by two operators and I am satisfied that the submitted evidence demonstrates that the development is the minimum necessary to meet requirements and ensure effective coverage taking account of surrounding buildings and trees. The proposed green colour would also help to assimilate the development with nearby vegetation, and would in this case be an appropriate response to the surroundings.
25. Turning to consider the use of existing buildings or structures, the Council has not disputed that the sloping roof forms which predominate the High Street are unsuitable to host equipment. Nor that those buildings with flat roofs would either be too low against adjacent buildings so that signals would be blocked, and/or that residential accommodation would be within exclusion zones for antennas specified by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). Further details of alternative sites which were considered by the appellants are also provided within a 'Supplementary Information' document which indicates that none were considered suitable, with additional commentary and explanation within the appeal evidence.
26. Potential alternative sites within a suitable area to deliver necessary coverage, including the college building, were discounted as unsuitable for reasons including the available space, access issues, the suitability of roofs to accommodate antennas, the height of buildings, or the presence of nearby development which would be a barrier to coverage. I particularly note that the construction of the roof of the adjacent college building was found to be unsuited to host the required equipment following a structural survey.
27. The Council suggests that it is not evident that the possibility of sharing facilities or erecting antenna on existing buildings or other structures has been fully explored but has put forward no substantive evidence to challenge the validity of the appellants' assessment, or to suggest alternatives that have not been considered. Against this, I find the appellants' case that there are no buildings or other structures available to host the required equipment to be compelling. The lack of realistic alternative options to deliver the required coverage and capacity is a consideration which weighs strongly in favour of the development.
28. For these reasons, I am satisfied that there would be no alternative option to the development to deliver an appropriate standard of communications in the area, and the social and economic benefits associated with this. The visual impact of the development on the surrounding area has also been minimised so

far as is practical. In these regards, the proposal would comply with Policy DM18 of the DMP as well as the Framework.

Other Matters

29. I have taken into account representations by interested parties. A number raise concerns over potential health risks, including in relation to 5G technology and the nearby homes, college, nursery and recreation ground. However, An ICNIRP certificate confirming that the development would meet International Commission guidelines has been provided, and I am directed by paragraph 116 of the Framework not to set health safeguards different from the International Commission guidelines for public exposure. There is no substantive evidence to suggest that the ICNIRP guidelines would not be met, and a departure from the approach within the Framework would not therefore be justified. The appellants further highlight reference by the Government to advice from Public Health England that overall exposure to radio waves when 5G is added should have no consequences for public health². There is also no firm evidence to suggest that wildlife would be harmed by the proposal or that there would be interference to internet, tv or radio signals.
30. Concerns that property values would be adversely affected have not been substantiated. Moreover, planning is concerned with land use in the public interest rather than the protection of private interests.

Planning Balance

31. I have found that the proposal would be visually intrusive causing harm to the character and appearance of the wider area in conflict with Policies DM01 and DM18 of the DMP. However, the harm would be relatively localised as a consequence of the potential opportunities for views of the development and the screening or backdrop to it provided by the surrounding buildings and trees.
32. Against this harm, the Framework gives strong support to the need for high quality and reliable communications infrastructure. I find that there is a clear and pressing need for development to deliver communications infrastructure to sustain adequate existing coverage and capacity in the area. The proposal would further allow for the expansion of networks. The evidence before me shows a lack of realistic alternative sites to provide coverage which is important for economic growth and social well-being, and in the absence of the appeal proposal, the quality of communication services would be deficient.
33. In this context, I find with regard to the specific circumstances of this case that the public benefits of the development would outweigh the harm caused by the visual effect of the development on the character and appearance of the area.

Conditions

34. Development permitted under Class A Part 16 are subject to standard conditions. These include the time limit for implementation, a requirement that development is carried out in accordance with the details approved/submitted with the application, and that it is removed when it is no longer required for electronic communications purposes. I have not repeated these conditions.

² Government response to the consultation on proposed reforms to permitted development rights to support the deployment of 5G and extend mobile coverage, MHCLG and DCMS July 2020

Conclusion

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

J Bowyer

INSPECTOR